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THE

REVISED LAWS

OF

The Commonwealth of Massachusetts.

ENACTED NOVEMBER 21, 1901,

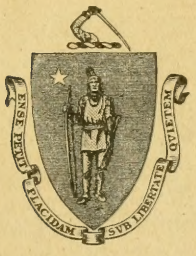
TO TAKE EFFECT JANUARY 1, 1902.

WITH THE

CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF THE COMMONWEALTH, AND TABLES SHOWING THE DISPOSITION OF THE PUBLIC STATUTES AND OF STATUTES PASSED SINCE THE ENACTMENT OF THE PUBLIC STATUTES.

VOL. I.

CHAPTERS 1-108.



BOSTON:
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STATE HOUSE, BOSTON.

PREFACE.

A resolve of the Legislature, approved April 28, 1896, provided that the Governor should appoint three commissioners for consolidating and arranging the Public Statutes of the Commonwealth which should be in force and operation when their final report was made, and that, in consolidating and arranging the statutes, the commissioners should have authority to omit enactments which were redundant and which had ceased to have any effect or influence on existing rights, to reject superfluous words, to condense into as concise and comprehensive a form as is consistent with a full and clear expression of the will of the Legislature all circuitous, tautological and ambiguous phraseology, to suggest any mistakes, omissions, inconsistencies and imperfections which may appear in the laws to be consolidated and arranged, and the manner in which they may be corrected, supplied and amended. Pursuant to this resolve, the Governor, with the advice and consent of the Council, appointed Edmund H. Bennett of Taunton, Charles U. Bell of Lawrence and William M. Butler of New Bedford, who entered upon the work of the commission. Mr. Bennett died in January, 1898, and subsequently, Mr. Bell and Mr. Butler resigned. The undersigned were appointed to succeed the original commissioners, and submitted their report to the General Court on the fourth day of June, 1901. Later, in compliance with an order of the General Court, adopted June 12, 1901, they prepared a supplemental report for the purpose of incorporating into the statutes the legislation of 1901. During the session of 1901, a joint special committee of the Legislature, consisting of the President of the Senate, the Speaker of the House of Representatives, the committee on the Judiciary of the Senate and House of Representatives, six other members of the Senate and sixteen other members of the House of Representatives, was appointed to consider and report on all matters relating to the consolidating and arranging of the Public Statutes. This committee was afterward increased by the addition of three members of the Senate and eight mem-

bers of the House of Representatives. By a resolve of the Legislature, the committee was authorized to continue its examination and revision of the report of the commissioners after the prorogation of the regular session, and His Excellency the Governor was requested to call an extra session of the General Court on the second Wednesday of November, 1901, to the end that the statutes as consolidated, arranged and revised by the commissioners and by the committee might be enacted to take effect on the first day of January in the year 1902, or as soon thereafter as possible. The committee accordingly held twenty-two sessions, the first on May 27 and the last on October 16, examined each chapter of the commissioners' report separately upon a report from a sub-committee, to which it had been referred, and reported in print to the Legislature at the extra session, which convened on November 13, 1901. The Legislature adopted a few perfecting amendments, and on November 21, 1901, passed the following act for consolidating and arranging the general statutes of the Commonwealth, to take effect from and after the thirty-first day of December in the year 1901, under the title of the Revised Laws.

An Index is being prepared by Charles N. Harris, but it is impossible to have it completed in time to be printed herewith. When it is completed, it will be published in a separate volume. Meanwhile, the tables showing the disposition of each chapter and section of the Public Statutes of 1882 and of all subsequent statutes up to and including the acts of the year 1901, and the analysis of the chapters, will be of assistance. Thus, according to the table, Pub. Sts. c. 1, §§ 1–5, will be found in Revised Laws, c. 1, §§ 2, 3, 5–7. Pub. Sts. c. 2, §§ 5–14, were repealed by St. 1885, c. 24. That statute, except so much of it as was superseded by St. 1890, c. 302, will be found in Revised Laws, c. 3, § 7. St. 1890, c. 302, in turn, will be found in Revised Laws, c. 3, § 5. Pub. Sts. c. 12 was repealed by St. 1888, c. 390, the disposition of which will be found in the table under St. 1888, c. 390.

The marginal citations of the earlier enactments from which existing provisions of law have been derived, which were given in the report of the commissioners, have been retained in the statutes so that the history of the legislation upon a given subject may readily be traced. An examination of the statutes so cited will show that many of them have undergone an interesting transformation in their evolution into their present form. In these citations the abbreviation B. L. refers to the Massachusetts Body of Liberties of 1641; C. L. refers to the Colonial Laws, Boston edition of 1890. The Provincial Laws are cited from the state edition of the Acts and Resolves of the Province of Massachusetts Bay.

The most important decisions of the Supreme Judicial Court upon the construction of the statutes, through volume 177 of the Massachusetts Reports, and the published opinions of the Attorney General have been cited in the margins of statutes to which they relate.

The Glossary has been omitted in consequence of the action of the joint special committee relative thereto.

The Constitution of the United States and the Constitution of this Commonwealth have been annotated by the commissioners at the request of the joint special committee. The citations of cases in the margin of the Constitution of the United States have been confined principally to the decisions of the Supreme Judicial Court of Massachusetts. The decisions of the Supreme Court of the United States construing the provisions of the Constitution are so numerous that even a selection of them would be cumbersome and confusing. Marginal citations of such decisions cannot supersede a digest of constitutional law; therefore, only such decisions of the Supreme Court of the United States and such acts of Congress as are of great public interest or affect the action of the States have been cited. Thus, *United States* v. *Wong Kim Ark*, 169 U. S. Rep. 649, has been cited because it determines who are citizens by birth of the United States and of the several States under the first clause of the Fourteenth Amendment; and *McPherson* v. *Blacker*, 146 U. S. Rep. 1, has been cited because it expounds the manner in which State Legislatures may appoint presidential electors. Such acts of Congress have been cited as fix the time at which presidential electors shall be appointed and the time at which the electoral college shall meet; as designate the officers who shall act in the case of removal, death, resignation or inability of both the President and the Vice-President of the United States; and as relate to the election of senators and representatives in Congress. The citations in the margin of the Constitution of the Commonwealth are believed to be sufficiently copious and to include all the principal decisions of the State and United States courts.

The statutes have been printed under the supervision of William M. Olin and James W. Kimball, who were appointed for that purpose by the President of the Senate and the Speaker of the House of Representatives under the authority of a resolve of the Legislature.

FRANCIS W. HURD.
CHARLES W. CLIFFORD.
CHARLES N. HARRIS.

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SHOWING THE DISPOSITION MADE OF THE PUBLIC STATUTES.

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" §§ 18, 21 (in part) . . . S. 1882, 108, §§ 1, 3.
c. 54 . . . . . R. L. 53, except
" § 2 . . . . . T.
" § 7 . . . . . R. L. 208, § 101.
" § 8 . . . . . S. 1899, 436.
" §§ 9, 12 . . . R. 1885, 123, § 3.
" § 10 . . . . S. 1899, 330, and earlier statutes.
c. 55 . . . . . R. L. 55.
c. 56 . . . . . R. L. 56, §§ 2–28, 35, 42, except
" §§ 3–12, 14–16 . O.
" § 17 . . . . S. 1884, 310, § 1.
" § 18 . . . . S. in part, 1885, 352, § 2.
" § 19 . . . . S. 1886, 317, § 2.
" §§ 49–87 . . . O.
c. 57, §§ 1, 3, 4, 8, 10, R. L. 56, §§ 51, 53, 54, 61, 64.
" § 2 . . . . . S. 1884, 310, § 3.
" § 5 . . . . . S. 1886, 318, § 2.

c. 57, § 6 . . . . . S. 1900, 300, § 2.
" §§ 7, 9 . . . S. 1885, 352, §§ 7, 6.
" § 11 . . . . Omitted.
" § 12 . . . . R. 1885, 145.
c. 58 . . . . . R. 1894, 491.
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" § 6 . . . . . R. L. 102, §§ 109, 112.
" § 7 . . . . . S. & R. 1882, 250; 1885, 122, § 1.
c. 60 . . . . . R. L. 57, except
" §§ 11–16 . . . R. 1888, 296.
" § 17 . . . . R. 1883, 29.
" §§ 20–22 . . . S. 1884, 161; 1888, 414.
" §§ 54, 55 . . . R. 1894, 111.
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" § 69 . . . . S. 1883, 257, § 1; 1884, 307, §§ 1, 4.
" § 71 . . . . S. 1884, 307, § 3.
" § 79 . . . . R. 1894, 429, § 5.
" §§ 81–84 . . . S. 1901, 423.
c. 61, § 1. . . . . S. 1889, 169.
" §§ 2, 6 . . . S. 1899, 465.
" §§ 3, 7, 9 . . . S. 1900, 459, §§ 3–5.
" §§ 4, 5, 8, 10–12, R. L. 58, §§ 3, 4, 8–11.
" § 13 . . . . R. L. 58, § 13; S. in part, 1885, 240, § 1.
" § 14 . . . . S. 1892, 67, and earlier statutes.
" §§ 15, 17, 18 . R. L. 58, §§ 15, 18.
" § 16 . . . . S. 1894, 316.
" § 19 . . . . S. 1886, 346, § 7.
c. 62 . . . . . R. L. 59.
c. 63 . . . . . R. L. 60, except
" §§ 1–5, 16, 19 . S. 1890, 159.
c. 64 . . . . . R. L. 61.
c. 65 . . . . . R. L. 62, §§ 6–42, except
" § 7 . . . . . S. in part, 1890, 426, § 6.
" § 8 . . . . . S. in part, 1882, 42.
" § 10 . . . . Omitted as superfluous.
c. 66 . . . . . R. L. 63, except
" § 4 . . . . . S. in part, 1890, 426, § 9.
c. 67 . . . . . R. L. 64, except
" §§ 1, 5 . . . S. 1886, 289.
" § 2 . . . . . Part omitted as superfluous.
" § 6 . . . . . S. 1890, 449, § 1.
c. 68 . . . . . R. L. 65, §§ 13–29, except
" § 1 . . . . . S. 1899, 260.
" § 2 . . . . . S. 1892, 331.
" § 9 . . . . . R. 1889, 457.
c. 69 . . . . . R. L. 66, except
" §§ 1–4 . . . S. — U. S. Rev. Sts., §§ 4283–4289, *et seq.*
" § 8 . . . . . S. 1889, 284.
" § 12 . . . . Omitted as superfluous.
" § 23 . . . . S. 1884, 269, § 1.
" §§ 26, 29, 33 . S. 1884, 173.
c. 70 . . . . . R. L. 67, except
" § 1 . . . . . O.
" § 12 . . . . S. 1890, 300.
" § 27 . . . . S. in part, 1884, 213.
" § 30 . . . . S. in part, 1884, 252, § 2.
" §§ 32, 39 . . . S. 1884, 252, §§ 4, 6.
" § 40 . . . . Omitted as superfluous.
c. 71 . . . . . R. L. 68.
c. 72 . . . . . R. L. 69, except
" § 2 . . . . . S. 1885, 167.
" § 5 . . . . . S. 1886, 258.
" §§ 8, 10 . . . S. 1895, 348, §§ 1, 2.
c. 73 . . . . . R. L. 70, except
" § 3 . . . . . S. in part, 1884, 330.
c. 74 . . . . . R. 1894, 508, § 80.
c. 75 . . . . . R. L. 71, except
" § 6 . . . . . S. 1898, 485.
" § 11 . . . . O.

c. 76 . . . . . R. L. 72, §§ 2–6, 10, 12.
c. 77, §§ 1–3, 5–7 . . R. L. 73, §§ 1–6.
" § 4 . . . . . S. 1898, 533, § 6.
" § 8 . . . . . S. 1894, 333, 427; 1895, 201.
" §§ 9, 10 . . . S. 1896, 228, 496.
" § 11 . . . . R. L. 73, § 14; S. in part, 1898, 533, § 7.
" § 12 . . . . S. 1898, 533, §§ 71, 72.
" § 13 . . . . S. 1898, 533, § 66.
" § 14 . . . . S. 1898, 533, §§ 53, 58.
" § 15 . . . . R. L. 73, § 16; S. in part, 1898, 533, §§ 17, 63.
" § 16 . . . . S. 1898, 533, §§ 96, 105.
" § 17 . . . . R. L. 73, § 14; S. in part, 1895, 415, § 1.
" §§ 18–22 . . . R. L. 73, §§ 9–13.
c. 78 . . . . . R. L. 74.
c. 79, as affected by Sts. 1884, 323; 1886, 101; 1887, 264; 1895, 428; 1898, 433; 1900, 333 . . R. L. 84, except
" § 3 . . . . . R. L. 87, § 26, in part.
" § 7 . . . . . S. in part, 1898, 433, § 7.
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" § 9 . . . . . S. 1887, 367.
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c. 80, as affected by Sts. 1886, 101; 1898, 433 . . Mostly in R. L. 75.
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" §§ 11, 16, 17 . R. L. 75, §§ 11, 13, 15.
" § 12 . . . . R. L. 75, § 66; S. in part, 1889, 108.
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" §§ 36–39 . . . R. L. 75, §§ 84–86.
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" §§ 44–47 . . . R. L. 75, §§ 87–90.
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" §§ 56–59 . . . R. L. 75, §§ 62–64.
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" §§ 78, 79 . . . R. 1884, 98, § 5.
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" § 92 . . . . S. 1893, 106.
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" § 96 . . . . S. in part, 1896, 252, § 1.
" § 97 . . . . R. L. 75, § 125.
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c. 82 . . . . . R. L. 78, except
" § 3 . . . . . S. 1885, 302.
" § 6 . . . . . S. 1883, 142; 1889, 299.
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" §§ 1, 6 . . .	S. in part, 1898, 425, §§ 1, 2. T. in part.
c. 84	R. L. 81, except
" § 3	S. 1893, 197, § 1.
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" § 19	R. 1895, 445, § 4.
c. 85	R. L. 82, except
" § 1	S. 1885, 289.
" § 2	S. 1900, 129.
" § 6	S. 1891, 367.
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" § 14	S. 1898, 157.
c. 86, as affected by Sts. 1884, 323; 1887, 264; 1898, 433; 1900, 333 . .	R. L. 85, except
" §§ 1–12 . . .	Omitted as inoperative.
" § 13	R. 1884, 297, § 1.
" § 14	R. L. 85, §§ 2, 3; S. in part, 1884, 297, § 2.
" § 16	R. L. 85, §§ 6, 8; S. in part, 1891, 299.
" § 17	S. 1891, 299.
" § 19	S. in part, 1884, 297, § 3.
" § 21	S. 1891, 84.
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" § 40	R. L. 85, § 2; S. in part, 1891, 299.
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c. 87, as affected by Sts. 1886, 101; 1887, 264; 1898, 433; 1900, 333 . .	R. L. 87, except
" § 1	S. 1886, 101, § 4; 1898, 433, § 13.
" § 4	S. in part, 1884, 149.
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" § 14	R. 1892, 53, § 2.
" § 23	S. in part, 1894, 493.
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" § 36	S. 1898, 433, § 15.
" § 37	S. in part, 1887, 239.
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" § 55	S. in part, 1883, 239.
" § 56	S. in part, 1886, 298, § 4.
c. 88, as affected by Sts. 1884, 323; 1886, 101; 1887, 264; 1895, 428; 1898, 433 . .	R. L. 85, except
" § 1	R. 1884, 297, § 1.
" § 2	R. L. 85, §§ 6, 28; S. in part, 1891, 299.
" § 3	R. L. 85, § 2; S. in part, 1884, 297.
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" § 31	S. in part, 1890, 440, § 3.
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" § 4	S. 1899, 103.
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" § 31	S. 1890, 231.
" § 33	S. in part, 1895, 88, § 2.
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" § 97	S. in part, 1884, 284.
" § 100	S. in part, 1886, 299, §§ 2, 3.
" § 104	S. 1898, 205.
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" § 5	S. in part, 1882, 274, § 2; 1883, 183, § 1.
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" § 3	R. 1887, 391, § 4.
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" § 5	R. L. 99, § 3.
" § 8	S. 1885, 342, § 1.
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" § 1	S. 1894, 489.
" § 2	S. & R. in part, 1887, 431, § 6; 1896, 397, § 10.
" § 3	R. 1887, 431, § 6.
" §§ 5, 16 . . .	S. in part, 1885, 83; 323, § 2.
" § 6	S. in part, 1882, 222; 1885, 323, § 2; 1894, 428, § 4.
" § 7	S. in part, 1887, 323.
" § 9	S. in part, 1884, 158; 1885, 90; 1891, 369; 1896, 272; 1901, 87.

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" § 11 . . . . S. 1888, 341.
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" § 18 . . . . S. 1889, 114.
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" § 28 . . . . S. 1885, 83; 323, § 2; 1894, 428.
" § 29 . . . . S. & R. in part, 1885, 224; 1886, 175.
" §§ 30, 33 . . . S. in part, 1887, 406.
" § 38 . . . . S. 1887, 53.
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" § 2 . . . . . S. 1894, 235.
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" § 12 . . . . S. 1885, 358.
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" § 124 . . . . S. in part, 1882, 258; 1885, 323, § 2.
c. 103 . . . . . R. L. 108, except
" §§ 1, 2 . . . R. L. 108, §§ 1, 7; R. & S. in part, 1884, 190; 1885, 186; 1888, 113; 1894, 481, § 1, and earlier statutes; 1895, 396; 418, § 8; 1896, 546, § 4; 1898, 261.
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" § 2 . . . . . S. in part, 1886, 101, § 4.
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" § 1 . . . . . R. L. 111, § 1; S. in part, 1892, 110; 1898, 578, § 1.
" § 6 . . . . . R. L. 111, § 6. Omitted in part as covered by R. L. 109, §§ 2, 3.
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" § 8 . . . . . S. 1898, 578, § 27.
" § 11 . . . . R. L. 112, § 17; S. in part, 1889, 210.
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" § 3	S. 1890, 191.
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" § 1	S. 1890, 243.
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" § 1	R. in part, 1890, 265, § 2.
" §§ 2, 8, 11	R. L. 149, § 1.
" § 4	S. 1885, 242.
" § 12	R. L. 137, § 10; S. in part, 1899, 301.
" § 13	S. 1899, 311.
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" § 2	S. 1888, 148, § 1.
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" §§ 2–4	Omitted as superfluous.
c. 133, § 5	R. L. 173, § 5.
" §§ 6–10	R. L. 150, §§ 7–11.
c. 134	R. L. 146, except
" § 7	Omitted as superfluous.
" § 13	S. 1888, 148, § 2.
" § 16	S. 1901, 315.
" § 19	S. 1895, 140.
c. 135	R. 1899, 479, § 13; 1900, 450, § 10.
c. 136	R. L. 141.
c. 137	R. L. 142, except
" § 12	R. L. 142, § 12; S. in part, 1885, 384, § 5.
c. 138	R. L. 143.
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" § 3	S. 1899, 178, § 2.
" § 5	S. 1898, 138.
" § 6	R. 1900, 345, § 6.
" § 8	S. 1897, 173.
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" §§ 22–28	R. L. 149, §§ 1, 4–7, 35.
" § 39	R. L. 146, § 25.
c. 140	R. L. 146, except
" § 1	S. 1899, 147.
" § 13	R. L. 146, § 5. Omitted in part.
" § 18	S. 1885, 258.
c. 141	R. L. 147, except
" §§ 12, 13	R. L. 149, § 1, cl. 7.
" § 16	S. 1891, 339.
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" § 23	S. 1889, 66.
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c. 142	R. L. 148, except
" § 14	S. 1889, 266.
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c. 143	R. L. 149, §§ 9–34, except
" §§ 1, 2	S. 1901, 463.
" § 19	S. 1897, 131.
c. 144	R. L. 150, except
" § 6	S. 1900, 147.
" §§ 10, 15	Omitted as redundant.
" §§ 13, 14	S. & R. 1889, 466; 1895, 288, § 2.
c. 145	R. L. 151, except
" § 16	R. L. 151, § 16. O. in part.
" § 22	R. L. 151, § 30; S. in part, 1894, 409, § 5; 1899, 387, § 1.
" § 24	S. 1892, 300.
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c. 146	R. L. 152, except
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" § 6	R. L. 152, § 6; S. in part, 1887, 332, § 1.
" § 8	S. 1885, 384.
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" §§ 24–26	Omitted as inoperative.
" §§ 33, 36	R. L. 152, §§ 29, 30; S. in part, 1887, 332, § 1.
" § 34	R. L. 173, § 106.
" § 35	S. 1885, 384, § 3.
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" § 1	S. 1889, 204.
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" § 6	S. & R. 1884, 301; 1899, 479, § 13; 1900, 450, § 10.
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" § 14 . . . . S. in part, 1897, 89.
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" § 6 . . . . . R. L. 157, § 7; S. in part, 1891, 379, § 1.
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SHOWING THE DISPOSITION MADE OF STATUTES ENACTED SINCE THE PUBLIC STATUTES.

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" 259 . . . . R. L. 100, §§ 34, 42.
" 260 . . . . R. 1890, 423, § 228.
" 263, § 1 . . R. L. 75, § 16; S. in part, 1897, 344, § 1.
" 263, § 2 . . S. 1886, 171.
" 263, § 3 . . R. L. 75, § 18; S. in part, 1884, 289, § 5; 1897, 344, § 3.
" 263, § 4 . . R. 1884, 289, § 5.
" 263, § 5 . . R. L. 75, §§ 4, 5; S. in part, 1883, 263, § 1; 1886, 101, § 4.
" 263, § 6 . . R. L. 75, § 20.
" 263, § 7 . . R. L. 75, §§ 5, 24.
" 264, § 1 . . R. L. 203, § 24.
" 264, § 2 . . R. L. 173, § 82; 203, § 25.
" 265, § 1 . . R. L. 111, §§ 40, 161.
" 265, § 2 . . R. L. 111, § 47.
" 265, § 3 . . R. L. 111, §§ 34, 161. Mostly T.
" 265, § 4 . . R. L. 111, § 89.
" 266 . . . . R. 1894, 481, § 63, and earlier statutes.
" 267 . . . . S. 1900, 267, §§ 1, 2.
" 268 . . . . R. 1884, 298, § 53.
" 269 . . . . R. L. 102, § 93.
" 270, §§ 1, 2 . R. L. 83, § 10; S. in part, 1889, 309, § 1.
" 270, § 3 . . R. L. 83, §§ 18, 19; S. & R. in part, 1892, 318, § 16; 1898, 433, § 24.
" 270, § 4 . . R. 1884, 210; 1885, 176.
" 272 . . . . R. L. 102, § 91.
" 274, § 1 . . Special.
" 274, § 2 . . R. 1883, 183, § 3.
1882, Res. c. 15 . . R. L. 16, § 104.
" " 56 . . R. L. 5, § 7.
1883, c. 7 . . . . T.
" 29 . . . . Acted on.
" 31 . . . . R. L. 91, § 81.
" 32, §§ 1, 3 . R. L. 111, § 226.
" 32, § 2 . . S. 1900, 154.
" 33 . . . . R. 1887, 214, § 112.
" 36 . . . . R. 1886, 276, § 11.
" 41 . . . . R. L. 12, §§ 58, 59.
" 42 . . . . R. 1890, 423, § 228.
" 47 . . . . R. L. 160, § 67.
" 48 . . . . S. 1887, 26.
" 52 . . . . R. 1894, 317, § 53.
" 53 . . . . S. 1888, 235.
" 54 . . . . S. 1886, 37, § 1.
" 55 . . . . S. 1889, 440, § 9.
" 57 . . . . R. 1885, 155, § 5.
" 61 . . . . Redundant in part. See R. L. 204, § 21; S. in part, 1890, 440, § 9.
" 62 . . . . R. L. 189, § 75.
" 63 . . . . R. L. 20, § 16.
" 65 . . . . R. L. 108, § 15.
" 71 . . . . R. 1886, 73.
" 73 . . . . R. L. 198, § 1.
" 74 . . . . R. L. 14, § 50.
" 75, § 1 . . R. L. 160, § 67.
" 75, § 2 . . Special.

1883, c. 77 . . . . R. L. 208, § 84.
" 78 . . . . R. L. 87, §§ 94, 95; S. in part, 1898, 433, § 23.
" 79 . . . . Special.
" 80, §§ 1, 3–5, Special.
" 80, § 2 . . S. 1886, 106.
" 81 . . . . S. 1901, 268, § 4.
" 84 . . . . R. L. 106, § 9.
" 91 . . . . R. L. 12, § 61; S. in part, 1894, 318.
" 93 . . . . R. L. 100, § 12.
" 97, §§ 1, 2 . Special.
" 97, § 3 . . S. 1885, 180.
" 98, § 1 . . R. L. 110, § 16.
" 98, §§ 2, 3 . Acted on.
" 99 . . . . R. L. 5, § 5.
" 100 . . . . R. L. 8, § 3.
" 101 . . . . R. 1888, 390, § 95.
" 102 . . . . R. L. 212, § 35.
" 105 . . . . Special.
" 107 . . . . R. 1887, 214, § 112.
" 110 . . . . R. L. 86, § 17; S. in part, 1886, 101, § 4; 1898, 433, § 24.
" 111 . . . . R. L. 160, § 67.
" 117 . . . . R. 1888, 240.
" 118 . . . . R. L. 65, § 21.
" 120 . . . . R. 1887, 448, § 2.
" 121 . . . . R. L. 91, § 7.
" 124 . . . . S. & R. 1888, 306, § 2; 1897, 437, § 8.
" 125 . . . . R. L. 111, § 221.
" 126 . . . . R. 1887, 214, § 112.
" 127 . . . . R. L. 8, § 5, cl. 12.
" 133 . . . . S. 1889, 193, § 1.
" 134 . . . . R. 1894, 317, § 53.
" 138 . . . . S. 1886, 101, § 4; 1893, 302.
" 142 . . . . R. L. 78, § 3; S. in part, 1889, 299.
" 145 . . . . S. 1896, 251, § 1.
" 148, § 1 . . R. L. 225, § 111.
" 148, §§ 2, 3 . S. 1889, 90.
" 156 . . . . R. L. 208, § 113; S. in part, 1893, 417, § 319.
" 157 . . . . R. 1887, 280, § 1.
" 158 . . . . R. 1897, 444, § 31.
" 164 . . . . R. 1886, 38, § 2.
" 167 . . . . Special.
" 168 . . . . S. 1900, 157.
" 169 . . . . R. 1898, 181, § 2.
" 173 . . . . R. 1894, 481, § 63.
" 174 . . . . R. 1898, 496, § 36.
" 175 . . . . R. L. 161, § 46.
" 183 . . . . R. L. 93, §§ 5, 6.
" 184 . . . . R. L. 89, § 4.
" 187 . . . . R. L. 102, § 12.
" 188, § 1 . . R. L. 175, § 30.
" 188, § 2 . . S. 1899, 123, § 1.
" 189 . . . . T.
" 195 . . . . R. L. 175, § 10.
" 202 . . . . R. 1890, 168, § 2.
" 203 . . . . R. 1893, 417, § 345.
" 216 . . . . S. 1886, 51, § 1.
" 217 . . . . S. 1887, 447, § 8.
" 218 . . . . R. 1894, 429, § 5.
" 221 . . . . R. L. 25, §§ 52, 54; 122, § 1.
" 223, § 1 . . R. L. 159, §§ 1, 2, 4.
" 223, § 2 . . Acted on.
" 223, § 3 . . R. L. 159, § 7.
" 223, § 4 . . R. L. 159, § 18.
" 223, § 5 . . S. 1884, 316.
" 223, § 6 . . S. 1901, 244.
" 223, § 7 . . S. 1893, 61.
" 223, §§ 8, 9 . R. L. 159, §§ 30, 31.
" 223, § 10 . . R. L. 159, §§ 12–14.
1883, c. 223, § 11 . . R. L. 159, § 8.
" 223, § 12 . . R. L. 159, § 32.
" 223, § 13 . . R. L. 159, § 5.
" 223, § 14 . . R. L. 173, §§ 28, 32.
" 223, § 15 . . R. L. 156, § 13.
" 223, § 16 . . R. L. 159, § 38.
" 223, § 17 . . R. L. 159, § 6; 173, § 52.
" 224 . . . . S. & R. 1885, 222; 1888, 348, § 12.
" 225 . . . . R. L. 62, § 30.
" 229, §§ 1, 2 . R. 1890, 423, § 228.
" 230 . . . . R. 1887, 94.
" 232, § 1 . . R. L. 81, § 26.
" 232, § 2 . . R. L. 83, § 21.
" 232, § 3 . . R. L. 83, §§ 20, 23; S. in part, 1886, 101, § 4; 1898, 433, § 24.
" 235 . . . . R. 1887, 214, § 112.
" 239, § 1 . . R. L. 87, § 113; R. in part, 1886, 298, § 12.
" 239, §§ 2–7 . R. 1886, 298, § 12.
" 242 . . . . S. 1897, 303.
" 243 . . . . R. L. 111, § 267.
" 244 . . . . S. 1888, 112.
" 245 . . . . R. 1894, 498, § 30.
" 248 . . . . R. 1894, 317, § 53.
" 251 . . . . R. in part, 1892, 419, § 138.
" 251, §§ 1, 3, 4, R. L. 104, §§ 29, 31, 32.
" 251, § 2 . . R. 1888, 426, § 14.
" 252 . . . . R. L. 17, § 5; 175, §§ 27, 46; S. in part, 1896, 476, § 1.
" 253 . . . . R. L. 48, § 17.
" 257 . . . . S. 1884, 307, §§ 1, 3.
" 258, § 1 . . R. L. 118, § 95; R. in part, 1894, 317, § 53.
" 258, § 2 . . R. 1894, 317, § 53.
" 258, § 3 . . R. L. 118, § 95; S. & R. in part, 1886, 300, § 2; 1894, 317, § 53.
" 260 . . . . R. L. 66, § 27; 97, §§ 15–23.
" 262 . . . . R. L. 78, § 28.
" 263 . . . . R. 1884, 289, § 6.
" 264 . . . . R. L. 138, § 18.
" 267, § 1 . . R. L. 223, §§ 31, 33, 34.
" 267, § 2 . . R. L. 223, § 37.
" 267, §§ 3, 4 . R. L. 223, § 35.
" 267, § 5 . . R. L. 223, §§ 40–44, 46.
" 268 . . . . R. L. 125, § 10.
" 278 . . . . R. L. 85, § 2; S. in part, 1900, 333.
" 279 . . . . T.
1883, Res. c. 45 . . R. L. 6, § 79.
1884, c. 4 . . . . S. 1888, 115.
" 5 . . . . S. 1899, 252.
" 8 . . . . S. 1887, 83.
" 14, § 1 . . O.
" 14, § 2 . . S. 1887, 128.
" 15 . . . . R. 1889, 101, § 2.
" 22 . . . . R. 1891, 177, § 2.
" 34 . . . . R. 1889, 301, § 10.
" 37 . . . . R. L. 98, § 17.
" 38 . . . . S. 1887, 221.
" 40, § 1 . . R. L. 22, § 5.
" 40, §§ 2–4 . T.
" 42 . . . . R. L. 25, § 15.
" 43, § 1 . . R. L. 223, § 36.
" 43, § 2 . . Acted on.
" 43, § 3 . . S. 1897, 329.
" 45 . . . . S. 1887, 411, § 128.
" 52 . . . . R. 1894, 481, § 63.
" 55 . . . . R. 1887, 214, § 112.
" 56 . . . . R. 1884, 168, § 2.
" 58 . . . . R. 1887, 214, § 112.
" 60 . . . . Acted on.

1884, c. 64 . . . . S. 1885, 198.
" 65 . . . . S. 1887, 318.
" 66 . . . . R. L. 89, § 4.
" 69 . . . . R. 1894, 320, § 3.
" 70 . . . . R. 1894, 429, § 5.
" 72 . . . . R. 1894, 317, § 53.
" 74 . . . . R. 1887, 214, § 112.
" 76 . . . . R. L. 102, § 92.
" 78 . . . . R. L. 37, §§ 1, 3, 4.
" 79 . . . . S. 1888, 385.
" 88 . . . . R. 1886, 298, § 12.
" 95 . . . . R. 1888, 264, § 3.
" 98, § 1 . . S. 1890, 102.
" 98, § 2 . . S. 1891, 188.
" 98, §§ 3, 4 . R. L. 75, § 51.
" 99 . . . . R. L. 212, § 24.
" 103, § 1 . . S. 1901, 472.
" 103, § 2 . . T.
" 112 . . . . S. 1898, 323.
" 116 . . . . R. L. 87, § 27; S. in part, 1898, 433, § 23.
" 118 . . . . R. 1887, 217, § 2.
" 119 . . . . R. 1887, 214, § 112.
" 120 . . . . R. 1887, 214, § 112.
" 122 . . . . T.
" 125 . . . . R. 1888, 437, § 6.
" 126 . . . . R. L. 163, § 116.
" 129 . . . . S. 1896, 269.
" 131 . . . . R. L. 162, § 44.
" 132, § 1 . . R. L. 153, § 3.
" 132, § 2 . . Confirmatory.
" 134 . . . . R. L. 111, § 95.
" 140 . . . . R. 1898, 146, § 6.
" 141 . . . . R. L. 162, § 58.
" 149 . . . . R. L. 87, § 18.
" 150 . . . . R. 1894, 317, § 53.
" 152, § 1 . . R. L. 225, § 127.
" 152, § 2 . . R. L. 225, § 129; S. in part, 1898, 443, § 3.
" 152, § 3 . . T.
" 152, § 4 . . R. L. 225, §§ 119, 127–129.
" 154 . . . . S. 1896, 252, § 2.
" 155 . . . . S. 1890, 309.
" 158 . . . . S. 1901, 87.
" 161 . . . . R. L. 57, § 24.
" 162 . . . . R. 1888, 390, § 95.
" 163 . . . . T.
" 166 . . . . R. 1885, 369, § 4.
" 168 . . . . R. 1894, 317, § 53.
" 169 . . . . R. L. 102, § 12.
" 170 . . . . R. L. 165, § 50.
" 171 . . . . S. 1888, 276.
" 172 . . . . R. L. 75, § 129.
" 173 . . . . R. L. 66, §§ 21, 24, 28.
" 174 . . . . R. L. 208, § 49.
" 175 . . . . R. L. 177, § 40; 178, § 30.
" 176 . . . . R. L. 12, § 5, cl. 4.
" 177 . . . . R. 1887, 214, § 112.
" 178 . . . . R. 1887, 214, § 112.
" 179, §§ 1, 2 . R. L. 6, §§ 35, 36.
" 179, §§ 3, 4 . S. 1890, 58, §§ 1, 2.
" 180 . . . . S. 1887, 214, §§ 62–64.
" 181 . . . . R. 1888, 437, § 6; 1894, 224, § 18.
" 184 . . . . Special.
" 185 . . . . R. L. 102, § 136.
" 186 . . . . R. L. 78, § 18.
" 188 . . . . S. 1893, 396, § 56.
" 190 . . . . R. 1885, 186, § 2.
" 191 . . . . R. L. 100, § 72; S. in part, 1884, 286.
" 192 . . . . R. 1893, 169, § 4.
" 193 . . . . S. 1889, 432.
" 197 . . . . S. 1887, 117.

1884, c. 199 . . . . R. L. 91, §§ 52, 53.
" 203 . . . . R. L. 109, § 54.
" 204 . . . . R. L. 160, § 67.
" 205 . . . . R. L. 160, § 68.
" 207 . . . . R. L. 6, § 22.
" 208 . . . . R. L. 160, § 67.
" 209 . . . . R. L. 23, § 18.
" 210 . . . . R. 1885, 176.
" 211 . . . . R. L. 160, § 67.
" 212, § 1 . . S. 1887, 314, § 1.
" 212, § 2 . . R. L. 91, § 88.
" 212, § 3 . . R. L. 91, § 3.
" 212, § 4 . . R. L. 91, § 90.
" 212, § 5 . . R. L. 91, § 87.
" 213 . . . . R. L. 67, § 23.
" 215, § 1 . . R. L. 160, § 2.
" 215, § 2 . . Acted on.
" 215, § 3 . . S. 1888, 212.
" 215, § 4 . . S. 1885, 286; 1893, 479.
" 215, § 5 . . Special.
" 215, § 6 . . T.
" 217 . . . . R. 1887, 214, § 112.
" 219 . . . . R. L. 152, § 3.
" 220 . . . . R. L. 160, § 67.
" 222 . . . . R. L. 111, § 202.
" 223 . . . . R. L. 104, §§ 29–31; R. in part, 1892, 419, § 138.
" 226 . . . . R. L. 50, § 11.
" 229 . . . . R. L. 109, § 37.
" 230 . . . . S. 1887, 411.
" 231 . . . . R. L. 160, § 67.
" 232 . . . . T.
" 234 . . . . R. L. 87, §§ 109, 110; S. in part, 1898, 433, § 24; 1900, 451, §§ 1, 2.
" 235 . . . . R. 1887, 214, § 112.
" 236, §§ 1–4 . R. L. 163, §§ 150–153.
" 236, §§ 5, 7 . S. 1885, 353, §§ 1, 2.
" 236, § 6 . . S. 1889, 406, § 3.
" 236, § 8 . . R. 1885, 353, § 3.
" 236, § 9 . . S. 1890, 387.
" 236, §§ 10–14, R. L. 163, §§ 159, 161, 167–169.
" 236, § 15 . . R. 1897, 247, § 6.
" 237 . . . . R. L. 50, § 10.
" 242 . . . . R. 1888, 390, § 95.
" 245 . . . . R. L. 91, §§ 43, 78.
" 247 . . . . R. 1885, 141, § 2.
" 248 . . . . R. 1893, 469, § 4.
" 249 . . . . T.
" 252 . . . . R. L. 67, §§ 26, 28, 35.
" 253 . . . . R. 1894, 317, § 53.
" 255, §§ 1–5 . T.
" 255, § 6 . . R. L. 223, § 1.
" 255, § 7 . . Acted on.
" 255, § 8 . . R. L. 220, § 27; S. in part, 1886, 323, § 1.
" 255, § 9 . . S. 1886, 323, § 1.
" 255, § 10 . . R. L. 220, § 31.
" 255, § 11 . . S. 1884, 323, §§ 1, 3.
" 255, § 12 . . R. L. 225, §§ 83, 93.
" 255, § 13 . . S. 1901, 128.
" 255, § 14 . . R. 1894, 249, § 3.
" 255, §§ 15–18. R. L. 225, §§ 104–108.
" 255, § 19 . . R. 1888, 335, § 3.
" 255, §§ 20, 21. R. L. 223, § 22.
" 255, § 22 . . R. 1888, 335, § 3.
" 255, § 23 . . R. L. 223, § 24.
" 255, § 24 . . R. L. 223, §§ 23, 24; 225, § 9.
" 255, §§ 25, 26. R. L. 223, § 25.
" 255, § 27 . . R. L. 223, § 26.
" 255, § 28 . . R. L. 222, § 3; 225, §§ 15, 74; S. in part, 1888, 403, § 7.
" 255, § 29 . . R. L. 225, § 56.
" 255, § 30 . . R. L. 223, § 46.

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" 255, § 32 . . S. 1898, 307.
" 255, § 33 . . R. L. 225, §§ 117, 127, 128.
" 255, § 34 . . R. L. 225, § 129.
" 255, § 35 . . R. L. 225, § 136.
" 258, § 1 . . R. L. 85, §§ 22, 34; 212, §§ 46, 59; S. in part, 1887, 264; 1898, 443; 1900, 333.
" 258, § 2 . . R. L. 85, § 35; S. in part, 1889, 245; 1895, 449, § 14; 1897, 395, § 4; 1898, 433, § 24.
" 258, § 3 . . R. L. 85, § 36.
" 260 . . . . R. L. 169, §§ 9, 11.
" 264 . . . . Special.
" 265 . . . . R. L. 220, § 7.
" 266 . . . . Special.
" 268 . . . . R. L. 170, § 5.
" 269, § 1 . . R. L. 66, § 17.
" 269, § 2 . . S. 1892, 206.
" 272 . . . . R. L. 53, § 4.
" 275 . . . . R. 1894, 508, § 80.
" 277 . . . . R. L. 214, § 29.
" 279 . . . . Acted on.
" 280 . . . . R. L. 50, § 14.
" 282 . . . . R. 1887, 111.
" 284 . . . . R. L. 91, §§ 104, 105, 108, 110, 111.
" 285 . . . . R. L. 159, § 3, cl. 7.
" 286 . . . . S. 1897, 461.
" 289, § 1 . . R. 1891, 319, § 2.
" 289, § 2 . . R. L. 75, § 7; S. in part, 1886, 101, § 4.
" 289, § 3 . . R. L. 75, § 5.
" 289, §§ 4, 6 . Acted on.
" 289, § 5 . . R. L. 75, §§ 18, 27; S. in part, 1897, 344, § 3.
" 289, § 7 . . R. L. 75, § 18.
" 289, § 8 . . R. L. 75, § 21.
" 291 . . . . R. L. 137, § 13.
" 293 . . . . R. L. 142, §§ 1, 11; 163, § 32.
" 294 . . . . R. L. 162, § 62.
" 296 . . . . R. 1887, 214, § 112.
" 297, § 1 . . Acted on.
" 297, §§ 2, 4 . R. L. 85, §§ 1, 2, 5; S. in part, 1886, 101, § 4; 1887, 264; 1898, 433, § 24; 1900, 333.
" 297, § 3 . . S. 1891, 299.
" 298 . . . . R. 1890, 423, § 228.
" 299 . . . . R. 1890, 423, § 228.
" 301 . . . . S. 1885, 255, § 1.
" 302 . . . . R. L. 122, §§ 22, 23.
" 304, § 1 . . S. 1890, 154.
" 304, § 2 . . R. L. 173, § 77.
" 306 . . . . R. L. 122, §§ 3, 4.
" 307, §§ 1, 3, 4, R. L. 57, §§ 66, 69.
" 307, § 2 . . S. 1885, 150.
" 308 . . . . R. L. 92, §§ 14, 15.
" 310, § 1 . . S. 1885, 352, § 1.
" 310, § 2 . . R. L. 56, § 42.
" 310, § 3 . . S. 1885, 352, § 4.
" 310, § 4 . . R. L. 56, §§ 42, 52; S. in part, 1886, 318, §§ 1, 3.
" 310, § 5 . . R. L. 56, § 61.
" 313, § 1 . . R. L. 198, § 12.
" 313, § 2 . . S. 1892, 411.
" 316 . . . . S. 1892, 440.
" 317 . . . . R. L. 91, § 50.
" 318, § 1 . . R. L. 91, §§ 26, 78, 79.
" 318, § 2 . . Omitted as superfluous.
" 318, § 3 . . R. L. 91, § 26.
" 319 . . . . S. 1886, 352.
" 320 . . . . R. L. 19, except

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" 320, § 14 . . R. L. 19, § 7; S. in part, 1895, 501, § 1; 1896, 517, § 8.
" 320, § 15 . . S. 1893, 95.
" 320, § 17 . . S. 1889, 183.
" 320, § 19 . . S. 1888, 253.
" 320, § 20 . . R. L. 19, §§ 2, 4; S. in part, 1888, 41; 1889, 351.
" 320, § 21 . . Acted on.
" 321 . . . . R. L. 24, § 2.
" 322, § 1 . . R. L. 87, § 16; T. in part.
" 322, § 2 . . T.
" 322, § 3 . . R. L. 87, § 19.
" 322, § 4 . . R. L. 87, §§ 23, 24.
" 322, § 5 . . R. L. 87, §§ 26, 27, 29.
" 322, § 6 . . R. L. 87, § 27.
" 322, § 7 . . R. L. 87, § 40.
" 322, § 8 . . T.
" 322, § 9 . . R. L. 87, §§ 33, 75, 78–80.
" 323, § 1 . . Acted on.
" 323, §§ 2, 4 . T.
" 323, § 3 . . R. L. 86, §§ 10, 11.
" 324 . . . . R. L. 102, § 34.
" 326 . . . . R. L. 6, § 57.
" 328 . . . . R. 1892, 101, § 2.
" 329 . . . . R. L. 3, § 11.
" 330, § 1 . . S. 1901, 238.
" 330, §§ 2, 4 . R. L. 126, §§ 4–6.
" 330, § 3 . . S. 1895, 157.
" 331, §§ 1–4 . T.
" 331, § 5 . . R. 1894, 249, § 3.
" 333 . . . . S. 1887, 128.
" 334 . . . . S. 1894, 394.
1884, Res. c. 72 . . S. 1901, 469.
1885, c. 5 . . . . R. 1890, 423, § 228.
" 7 . . . . R. L. 22, § 8.
" 15 . . . . R. 1886, 38, § 2.
" 24, § 1 . . S. 1890, 302.
" 24, § 2 . . R. L. 3, § 7.
" 27 . . . . R. L. 157, § 24.
" 29 . . . . R. L. 22, § 26.
" 31 . . . . R. L. 17, § 10.
" 32 . . . . R. L. 18, §§ 16, 17.
" 35, § 1 . . R. L. 225, § 94.
" 35, § 2 . . R. L. 225, §§ 84, 105, 108.
" 40 . . . . R. L. 24, § 28.
" 41 . . . . R. L. 6, § 26.
" 42 . . . . R. L. 160, §§ 57, 58, 67.
" 45 . . . . S. 1893, 396, § 17.
" 48 . . . . R. L. 156, § 16.
" 49 . . . . R. L. 160, § 67.
" 52 . . . . R. 1888, 328, § 2.
" 59 . . . . S. 1892, 209, § 1.
" 60 . . . . R. L. 25, § 13.
" 66, § 1 . . R. L. 217, § 7.
" 66, § 2 . . T.
" 67 . . . . O. (By repeal of P. S. 44, § 37.)
" 71 . . . . R. 1894, 498, § 30.
" 73 . . . . R. L. 212, § 42.
" 75 . . . . R. L. 23, § 16.
" 77 . . . . S. 1891, 411, § 1.
" 79, § 1 . . R. L. 160, § 67.
" 79, §§ 2, 4 . Acted on.
" 79, § 3 . . S. 1886, 124.
" 83 . . . . R. L. 100, §§ 10, 42; S. in part, 1885, 323, § 2.
" 85 . . . . R. L. 111, § 187.
" 86 . . . . T.
" 87 . . . . S. 1891, 410.
" 90 . . . . R. L. 100, § 17.
" 91 . . . . R. L. 20, § 31.
" 92 . . . . R. 1894, 317, § 53.
" 94, § 1 . . R. L. 225, § 28.

1885, c. 94, §§ 2, 3 . R. L. 210, § 16.
" 98 . . . . R. L. 102, §§ 106, 107.
" 106 . . . . S. 1887, 86.
" 107 . . . . R. 1890, 423, § 228.
" 108 . . . . R. 1890, 423, § 228.
" 109 . . . . Acted on.
" 110 . . . . R. L. 111, § 197.
" 111 . . . . R. 1894, 317, § 53.
" 118 . . . . R. L. 39, § 21.
" 119 . . . . R. L. 111, § 9.
" 121, § 1 . . R. L. 114, § 6.
" 121, § 2 . . R. L. 114, § 24.
" 121, § 3 . . S. 1890, 63.
" 121, § 4 . . R. L. 114, § 19.
" 122 . . . . R. L. 102, §§ 110–112.
" 123, § 1 . . S. as to towns, 1899, 330, § 2.
" 123, § 2 . . R. L. 51, § 10; S. in part, 1899, 330.
" 124 . . . . R. 1887, 423, § 2; 1894, 317, § 53.
" 125 . . . . R. L. 177, § 55.
" 131 . . . . S. 1894, 481, § 1.
" 132 . . . . S. 1893, 396, § 63.
" 133 . . . . R. L. 208, § 117.
" 134, § 1 . . R. L. 157, § 27; R. in part, 1886, 218, § 2.
" 134, § 2 . . T.
" 135 . . . . R. L. 217, § 61.
" 136 . . . . R. L. 217, §§ 45–49.
" 137, § 1 . . S. 1893, 479.
" 137, § 2 . . R. L. 160, § 58.
" 141 . . . . R. L. 160, § 38; 175, §§ 1, 3.
" 142 . . . . R. 1890, 423, § 228.
" 144 . . . . R. 1886, 53, § 2.
" 145 . . . . Acted on.
" 147 . . . . S. 1887, 411, § 96.
" 148 . . . . R. 1887, 252, § 24.
" 149 . . . . R. L. 160, § 30; 161, § 34.
" 150 . . . . R. L. 57, § 67.
" 151 . . . . Special.
" 155, § 1 . . R. L. 160, § 2.
" 155, § 2 . . Special.
" 155, § 3 . . S. 1895, 500; 1899, 339.
" 155, §§ 4, 5 . T.
" 156 . . . . R. 1888, 437, § 6.
" 157 . . . . R. L. 28, §§ 17, 18.
" 158 . . . . R. 1895, 310, § 3.
" 159 . . . . R. 1893, 417, § 345.
" 161, § 1 . . Acted on.
" 161, § 2 . . R. L. 42, § 37.
" 162 . . . . R. 1899, 310, § 3.
" 164 . . . . R. L. 111, § 9.
" 165 . . . . S. & R. 1889, 211; 1893, 469, § 4.
" 167 . . . . R. L. 69, § 1.
" 168 . . . . S. 1889, 250.
" 169 . . . . R. L. 12, § 5, cl. 9.
" 173 . . . . R. 1889, 301, § 10.
" 176 . . . . S. 1893, 262.
" 178 . . . . S. 1887, 281.
" 180 . . . . S. 1888, 233.
" 183 . . . . S. 1890, 421.
" 186 . . . . Acted on.
" 189 . . . . R. L. 25, § 15.
" 190 . . . . R. L. 25, § 64.
" 191 . . . . R. 1896, 412.
" 193 . . . . R. 1887, 120.
" 194, § 1 . . S. 1890, 428.
" 194, §§ 2, 3 . R. L. 111, §§ 134, 135.
" 194, § 4 . . S. 1887, 295.
" 194, § 5 . . R. L. 111, § 137.
" 194, § 6 . . T.
" 195, § 1 . . S. 1889, 70.
" 195, § 2 . . S. 1891, 375, § 1.
" 196 . . . . R. L. 102, §§ 176, 177, 185, 186.

1885, c. 197 . . . . R. L. 25, § 24.
" 198 . . . . R. 1894, 498, § 30.
" 203 . . . . R. 1893, 469, § 4.
" 204 . . . . R. 1887, 122, § 2.
" 205, § 1 . . S. 1888, 280, § 1.
" 205, § 2 . . R. L. 164, § 28.
" 210, § 1 . . R. L. 73, § 17.
" 210, § 2 . . R. 1894, 317, § 53.
" 211 . . . . R. L. 85, §§ 14, 16; S. in part, 1891, 153; 1900, 333.
" 214 . . . . R. 1889, 279, § 11.
" 216 . . . . S. 1888, 262; 1889, 114, 186.
" 220, §§ 1, 2 . R. L. 91, §§ 106, 109.
" 220, § 3 . . R. 1888, 223, § 5; 1892, 188, § 6.
" 220, § 4 . . R. 1887, 96, § 3.
" 220, § 5 . . R. L. 91, § 112.
" 220, § 6 . . R. L. 91, § 134.
" 222 . . . . R. 1888, 348, § 12.
" 223 . . . . R. L. 208, § 58.
" 224 . . . . Acted on. See R. L. 6, § 58.
" 225 . . . . R. L. 212, § 33.
" 227 . . . . R. 1894, 176, § 2.
" 229 . . . . R. 1890, 423, § 228.
" 235 . . . . R. L. 8, § 5, cl. 13.
" 236 . . . . S. 1887, 411, §§ 22–29, 127–133.
" 237 . . . . R. L. 134, § 6.
" 238, § 1 . . R. L. 14, §§ 37, 38, 40, 59.
" 238, § 2 . . T.
" 240 . . . . R. L. 58, §§ 13, 14; 110, §§ 9, 48, 76, 80; S. in part, 1892, 67.
" 241 . . . . R. 1887, 214, § 112.
" 242 . . . . R. 1889, 192, § 2.
" 246 . . . . R. 1890, 423, § 228.
" 247 . . . . Acted on.
" 248 . . . . R. 1890, 423, § 228.
" 250 . . . . R. L. 165, § 35.
" 252 . . . . R. 1890, 416, § 7.
" 254 . . . . R. L. 204, § 13.
" 255 . . . . R. L. 153, § 36.
" 256 . . . . R. L. 91, § 91.
" 258 . . . . R. L. 146, § 9.
" 260 . . . . S. 1890, 265.
" 261 . . . . R. 1890, 423, § 228.
" 262 . . . . R. 1890, 423, § 228.
" 263 . . . . R. L. 6, § 4.
" 265, §§ 1–3 . R. L. 78, §§ 7–9.
" 265, § 4 . . R. L. 24, § 22; 78, § 37.
" 267 . . . . R. L. 122, §§ 12–14.
" 268 . . . . R. 1890, 423, § 228.
" 271 . . . . S. & R. 1886, 68, § 1; 1890, 423, § 228.
" 274 . . . . R. L. 149, §§ 3, 8.
" 275 . . . . R. 1893, 469, § 4.
" 276 . . . . R. 1900, 450, § 10, by repeal of P. S. 135.
" 277 . . . . S. 1889, 303; 1891, 80; 1892, 354; 1894, 250.
" 278 . . . . R. L. 78, §§ 31, 34.
" 282 . . . . R. L. 100, § 63.
" 283 . . . . R. L. 182, § 15.
" 286 . . . . R. L. 160, § 67.
" 287 . . . . Special.
" 288 . . . . R. L. 2.
" 289 . . . . R. L. 82, § 1.
" 291, §§ 1, 3, 4, R. L. 165, §§ 80, 81, 85, 88; R. in part, 1901, 329.
" 291, § 2 . . S. 1892, 133.
" 291, § 5 . . R. L. 173, § 83.
" 292 . . . . R. L. 102, §§ 128, 129.
" 293 . . . . R. L. 184, § 40.
" 299 . . . . R. L. 50, § 23.
" 300 . . . . R. 1887, 214, § 112.
" 302 . . . . R. L. 78, § 26.

1885, c. 303 . . . . R. L. 208, § 112; 210, § 22.
" 304 . . . . R. L. 164, § 29.
" 305 . . . . R. L. 212, § 21.
" 307 . . . . S. 1894, 218, 473.
" 308 . . . . R. 1887, 214, § 112.
" 309, §§ 1, 2 . R. L. 102, §§ 178, 179, 186; S. in part, 1885, 323, § 2.
" 309, § 3 . . R. L. 102, § 185.
" 309, § 4 . . R. L. 102, § 178.
" 310 . . . . R. L. 110, § 47.
" 312, § 1 . . S. 1900, 399.
" 312, § 2 . . R. L. 27, § 3; T. in part.
" 312, § 3 . . R. L. 26, § 10.
" 312, § 4 . . S. 1889, 372.
" 312, § 5 . . R. L. 25, § 100; 27, § 26.
" 313 . . . . S. & R. 1887, 267; 1893, 227; 1896, 397, § 24.
" 314 . . . . R. L. 121, except
" 314, § 1 . . S. in part, 1889, 373.
" 314, § 4 . . S. 1898, 499.
" 314, § 5 . . R. 1891, 351, § 2.
" 314, § 6 . . S. in part, 1887, 382, § 4.
" 314, § 13 . . S. 1896, 426.
" 314, § 15 . . R. L. 58, § 4.
" 316 . . . . R. 1895, 461, § 2.
" 318 . . . . R. 1893, 469, § 4.
" 319 . . . . R. L. 5, § 7.
" 320 . . . . R. L. 225, §§ 101, 106.
" 321 . . . . R. 1886, 13, § 2.
" 322 . . . . S. 1896, 396, § 34.
" 325 . . . . T.
" 326 . . . . R. 1888, 426, § 14.
" 327 . . . . Special.
" 332 . . . . S. 1898, 496, § 1.
" 334 . . . . R. L. 111, § 189.
" 337 . . . . T.
" 339 . . . . S. 1889, 414, §§ 6, 7; 1891, 158; 1899, 325, § 2.
" 341 . . . . R. 1887, 98, § 16.
" 342, § 1 . . R. L. 214, § 17.
" 342, § 2 . . R. L. 217, § 1.
" 344, § 1 . . R. L. 96, § 8.
" 344, § 2 . . R. L. 96, § 16.
" 344, § 3 . . R. L. 96, §§ 18–21.
" 344, § 4 . . S. 1891, 266, § 2.
" 344, §§ 5, 6 . R. L. 96, § 13.
" 345, § 1 . . S. 1886, 203.
" 345, § 2 . . S. 1900, 374, § 1.
" 345, §§ 3, 4 . R. 1900, 374, § 2.
" 345, § 5 . . R. L. 166, § 17.
" 345, § 6 . . S. 1900, 374, § 3.
" 345, § 7 . . R. 1887, 329.
" 345, §§ 8, 10 . R. L. 166, §§ 19, 20.
" 348 . . . . R. 1894, 317, § 53.
" 351 . . . . R. 1890, 423, § 228.
" 352, § 1 . . S. 1886, 317, § 1.
" 352, § 2 . . R. L. 56, § 37.
" 352, § 3 . . S. 1886, 317, § 2.
" 352, § 4 . . S. 1886, 318, § 1.
" 352, § 5 . . R. L. 75, § 5.
" 352, § 6 . . S. 1886, 318, § 2.
" 352, § 7 . . S. 1896, 398, § 1.
" 352, § 8 . . R. L. 56, § 55.
" 353, §§ 1, 2 . R. L. 163, §§ 154, 156.
" 353, § 3 . . Acted on.
" 353, § 4 . . R. 1895, 394, § 9.
" 353, § 5 . . R. L. 163, § 160.
" 353, § 6 . . R. L. 163, § 96.
" 354 . . . . R. 1887, 214, § 112.
" 355, §§ 1, 2 . S. 1893, 423, § 10.
" 355, § 3 . . R. L. 25, § 69.
" 356 . . . . R. L. 220, § 27.
" 358 . . . . S. 1897, 305.
" 359 . . . . R. L. 100, § 55.

1885, c. 365, § 1 . . R. L. 212, §§ 46, 59.
" 365, § 2 . . S. 1891, 427, § 5.
" 369 . . . . R. 1889, 164, § 2; 440, § 14.
" 371 . . . . R. 1898, 76, § 4.
" 375 . . . . R. 1891, 427, § 8.
" 376 . . . . R. L. 150, § 24.
" 378 . . . . S. 1894, 491, § 36; 1899, 408, § 1.
" 379, § 1 . . R. L. 24, § 7; S. in part, 1890, 213; 1892, 286.
" 379, §§ 2–7 . R. L. 24, §§ 9, 10, 26–30.
" 380 . . . . R. L. 122, § 11.
" 384, § 1 . . R. L. 167, §§ 21, 24; 200, § 4.
" 384, §§ 2–4 . R. L. 158, §§ 4–6.
" 384, § 5 . . R. L. 142, § 12; 163, §§ 45, 104; 181, § 6.
" 384, § 6 . . R. L. 173, § 11.
" 384, §§ 7, 10, 11 . . . R. L. 173, § 54.
" 384, § 8 . . R. L. 170, § 7.
" 384, § 9 . . R. L. 189, § 9.
" 384, § 12 . . R. L. 158, § 3.
" 384, § 13 . . R. L. 177, § 4.
" 384, § 14 . . R. L. 167, § 9; S. in part, 1892, 169.
" 384, § 16 . . Acted on.
" 385 . . . . R. L. 87, §§ 102–105; S. in part, 1886, 101, § 4; 1898, 433, §§ 24, 27, 28.
1886, c. 13 . . . . R. L. 165, § 20.
" 15, § 1 . . Acted on.
" 15, § 2 . . R. L. 160, § 2.
" 15, § 3 . . R. L. 160, §§ 52, 53.
" 15, §§ 4, 6, 7, T.
" 15, § 5 . . R. L. 160, §§ 53, 63.
" 28 . . . . R. L. 23, § 18.
" 31 . . . . S. 1888, 58.
" 36 . . . . R. L. 151, § 11.
" 37, § 1 . . R. L. 165, § 76.
" 37, § 2 . . S. 1890, 294.
" 38 . . . . S. 1886, 334; 1901, 211.
" 39 . . . . R. 1889, 301, § 10.
" 45 . . . . S. 1891, 180.
" 49 . . . . R. 1890, 423, § 228.
" 51 . . . . S. 1887, 289.
" 53 . . . . S. 1899, 409, § 3.
" 56 . . . . S. 1887, 86.
" 63 . . . . S. 1887, 411.
" 64 . . . . S. 1893, 396, § 23.
" 66 . . . . R. 1891, 24, § 2.
" 68 . . . . R. 1890, 423, § 228.
" 69 . . . . R. 1894, 317, § 53.
" 72 . . . . R. L. 213, § 3; S. in part, 1901, 373.
" 73 . . . . S. 1889, 103.
" 74 . . . . R. L. 24, § 2.
" 76 . . . . R. L. 25, § 15.
" 77 . . . . R. 1894, 317, § 53.
" 78 . . . . R. 1890, 423, § 228.
" 82 . . . . R. 1887, 391, § 4.
" 85 . . . . S. 1888, 362.
" 86 . . . . R. L. 178, § 47.
" 87 . . . . S. & R. 1887, 399, § 1; 1894, 508, § 80.
" 90 . . . . R. 1887, 280, § 2.
" 93 . . . . R. 1894, 317, § 53.
" 95 . . . . R. 1890, 168, § 2.
" 98 . . . . T.
" 101, §§ 1, 2 . R. L. 75, §§ 1, 2. Redundant in part.
" 101, § 3 . . R. L. 75, § 3; S. in part, 1889, 370.
" 101, §§ 4–6 . Acted on.
" 105 . . . . S. 1887, 411, § 14.
" 106 . . . . S. 1893, 479.

1886, c. 110 . . . . R. 1889, 301, § 10.
" 113 . . . . R. L. 32, § 38.
" 114 . . . . R. L. 164, § 29.
" 117 . . . . R. L. 26, § 36.
" 120 . . . . S. 1894, 41.
" 123 . . . . S. 1897, 390.
" 124 . . . . S. 1893, 479.
" 125 . . . . R. L. 125, § 19.
" 130 . . . . R. L. 160, § 67; S. in part, 1888, 195.
" 132 . . . . R. L. 21, § 2.
" 133 . . . . R. L. 21, § 2.
" 135 . . . . R. L. 204, § 23.
" 136 . . . . R. L. 160, § 67.
" 137 . . . . R. L. 146, §§ 9, 10.
" 140 . . . . R. L. 111, § 267.
" 142, § 1 . . R. L. 111, § 74.
" 142, § 2 . . T.
" 144 . . . . R. L. 96, § 3.
" 145 . . . . R. L. 162, § 62.
" 148 . . . . R. L. 160, § 67.
" 150 . . . . S. 1898, 548, § 331.
" 151 . . . . R. L. 160, § 67.
" 154 . . . . S. 1891, 162.
" 155 . . . . S. 1889, 28.
" 156 . . . . R. L. 160, § 67.
" 158 . . . . S. 1893, 479.
" 165 . . . . S. 1899, 297.
" 166 . . . . S. 1893, 479.
" 167 . . . . S. 1893, 479.
" 169 . . . . R. 1887, 438, § 8.
" 171 . . . . R. L. 75, § 17; S. in part, 1897, 344, § 2.
" 173 . . . . R. 1894, 481, § 63.
" 174 . . . . R. L. 107, §§ 5–9.
" 175 . . . . S. 1887, 232.
" 176 . . . . R. 1894, 317, § 53.
" 177 . . . . R. L. 225, § 137.
" 178 . . . . Special.
" 179 . . . . S. 1898, 230.
" 183 . . . . R. 1893, 469, § 4.
" 184 . . . . R. 1893, 469, § 4.
" 187 . . . . R. 1887, 214, § 112.
" 189 . . . . R. 1893, 469, § 4.
" 190, §§ 1, 3 . R. L. 160, § 2.
" 190, § 2 . . R. L. 160, § 67; S. in part, 1888, 88.
" 190, §§ 4–7 . Special.
" 192, §§ 1–3, 5, R. L. 91, §§ 122–125.
" 192, § 4 . . S. & R. 1887, 197; 1891, 327, § 2.
" 192, §§ 6, 7 . Omitted as superfluous.
" 194 . . . . R. L. 189, § 31.
" 197 . . . . R. L. 225, § 73.
" 202 . . . . R. 1887, 120.
" 203 . . . . S. 1891. 419.
" 205 . . . . T.
" 207 . . . . Omitted. Inoperative.
" 209 . . . . R. L. 110, §§ 37–39.
" 210 . . . . S. 1896, 236.
" 214 . . . . R. L. 7, § 8.
" 216 . . . . S. 1888, 425; 1896, 490, § 3.
" 218, § 1 . . T.
" 218, § 2 . . Acted on.
" 219 . . . . S. 1895, 390.
" 222 . . . . R. 1887, 214, § 112.
" 223 . . . . R. L. 158, § 2.
" 224 . . . . R. L. 166, § 13.
" 226 . . . . R. L. 224, § 25.
" 230 . . . . Acted on.
" 231 . . . . S. 1888, 158.
" 233 . . . . R. L. 150, § 15.
" 234 . . . . R. L. 91, § 127; S. in part, 1893, 105; 1899, 360.

1886, c. 236 . . . . R. 1898, 496, § 36.
" 237 . . . . R. 1887, 411, § 13.
" 238 . . . . S. 1891, 410.
" 239 . . . . R. L. 36, § 39.
" 241 . . . . R. 1887, 179, § 2.
" 242 . . . . R. 1894, 59.
" 245, §§ 1, 2 . S. 1899, 284.
" 245, § 3 . . R. L. 153, § 25.
" 246 . . . . R. 1897, 111.
" 247 . . . . R. L. 160, § 38; 217, § 23.
" 248, § 1 . . Special and T.
" 248, § 2 . . R. L. 91, § 16.
" 250 . . . . S. 1890, 252.
" 251 . . . . S. 1889, 339; 1891, 79; 1892, 298.
" 252 . . . . R. 1894, 317, § 53.
" 256 . . . . S. 1896, 509.
" 257 . . . . R. L. 18, § 13; S. in part, 1896, 522.
" 258 . . . . R. L. 69, §§ 4, 5.
" 259, § 1 . . R. 1889, 454, § 6.
" 259, § 2 . . R. L. 102, § 133; S. in part, 1887, 135.
" 260 . . . . R. 1894, 481, § 63.
" 262 . . . . R. 1890, 423, § 228.
" 263, § 1 . . S. 1887, 269, § 1.
" 263, § 2 . . R. L. 106, § 1.
" 263, § 3 . . R. L. 106, § 3; S. in part, 1887, 269, § 2.
" 263, §§ 4, 7, 8, S. 1887, 269, §§ 3–5.
" 263, §§ 5, 6 . R. L. 106, §§ 1, 3.
" 264 . . . . R. 1890, 423, § 228.
" 267 . . . . R. L. 217, § 15.
" 270 . . . . R. L. 14, §§ 37, 38, 40, 59, 63.
" 274 . . . . R. 1888, 375, § 5.
" 275 . . . . R. L. 222, § 2.
" 276, § 1 . . S. 1888, 292.
" 276, § 2 . . S. 1901, 178.
" 276, § 3 . . R. L. 92, § 6; S. in part, 1900, 373, §§ 3, 4, and earlier statutes.
" 276, § 4 . . R. L. 92, § 7.
" 276, § 5 . . R. 1894, 97, § 2.
" 276, § 6 . . S. 1891, 254.
" 276, § 7 . . S. 1895, 56.
" 276, § 8 . . S. 1893, 105.
" 276, § 9 . . S. 1899, 360.
" 276, § 10 . . R. L. 92, § 22.
" 281 . . . . R. L. 173, § 37.
" 283 . . . . T.
" 287 . . . . R. L. 75, §§ 59–61.
" 289 . . . . R. L. 64, § 10; S. in part, 1899, 235.
" 290 . . . . R. L. 163, § 24.
" 295 . . . . S. & R. 1888, 221, §§ 1, 2; 1893, 423, § 1.
" 296, § 1 . . R. L. 208, § 8.
" 296, §§ 2, 5 . R. L. 32, § 16.
" 296, § 3 . . R. L. 32, § 18.
" 296, § 4 . . O.
" 296, § 6 . . R. L. 32, §§ 20, 23; S. in part, 1897, 254, §§ 5, 8.
" 298, §§ 1, 3 . R. L. 87, §§ 115, 117.
" 298, § 2 . . R. L. 87, § 116; S. in part, 1898, 433, § 28.
" 298, § 4 . . R. 1887, 123, § 2.
" 298, §§ 5–9 . R. L. 87, §§ 118–122.
" 298, § 10 . . R. L. 87, §§ 120, 123; S. in part, 1887, 264; 1898, 428; 433, §§ 23, 28; 1900, 333.
" 298, § 11 . . Special.
" 298, § 12 . . Acted on.
" 299 . . . . R. L. 91, §§ 107, 110.
" 300, § 1 . . T.

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" 304 . . . . Special.
" 305 . . . . S. 1888, 391.
" 307 . . . . S. 1893, 479.
" 313 . . . . R. L. 42, § 32.
" 317, § 1 . . R. L. 56, § 36.
" 317, § 2 . . R. L. 56, § 38.
" 317, § 3 . . S. 1894, 280, § 1.
" 317, §§ 4, 5 . R. L. 56, §§ 39, 40.
" 318, § 1 . . R. L. 56, §§ 51, 52.
" 318, § 2 . . S. 1896, 398, § 2; 1900, 300, § 1.
" 318, § 3 . . R. L. 56, § 52.
" 318, § 4 . . S. 1896, 318, § 3.
" 319, §§ 1, 2 . R. L. 87, §§ 34, 100.
" 319, § 3 . . S. 1890, 414, § 2.
" 319, § 4 . . S. 1897, 451.
" 320 . . . . R. 1888, 390, § 95.
" 322 . . . . S. 1898, 465.
" 323, § 1 . . R. L. 220, § 28.
" 323, §§ 2, 3 . R. 1892, 302, § 3.
" 323, § 4 . . R. L. 225, §§ 117, 128, 129.
" 323, § 5 . . R. L. 220, § 27.
" 323, § 6 . . R. L. 220, § 28; 223, § 24.
" 323, § 7 . . R. L. 225, § 113.
" 328 . . . . R. L. 208, § 50.
" 329, §§ 1, 3 . S. 1898, 444.
" 329, §§ 2, 4–7, R. L. 212, §§ 3–7.
" 330 . . . . S. 1898, 496, § 35; 1900, 397.
" 332 . . . . S. 1887, 142, § 3.
" 333, § 1 . . Special.
" 333, § 2 . . S. 1887, 227.
" 334 . . . . S. 1901, 211.
" 337 . . . . Omitted by committee on revision.
" 338 . . . . S. 1896, 509, §§ 1–9.
" 339 . . . . Acted on.
" 340 . . . . R. L. 102, §§ 138–140.
" 342 . . . . R. L. 152, § 38.
" 346 . . . . R. L. 121, except
" 346, § 2 . . S. in part, 1888, 122.
" 346, § 3 . . S. in part, 1894, 450; 1896, 473.
" 346, §§ 6, 7 . R. L. 58, §§ 12, 19, in part.
" 348 . . . . S. 1896, 509, §§ 11–19.
" 352 . . . . R. 1894, 359.
" 354 . . . . S. & R. 1887, 231; 1894, 444, § 10.
1886, Res. c. 32 . . R. L. 53, § 16.
1887, c. 24 . . . . R. 1894, 424, § 7.
" 26 . . . . S. 1893, 103.
" 30 . . . . S. 1891, 375, § 2.
" 31 . . . . Special.
" 33 . . . . S. 1892, 148.
" 36 . . . . R. L. 166, § 17.
" 38 . . . . R. 1888, 209, § 2.
" 39 . . . . R. L. 164, § 29.
" 43 . . . . R. L. 107, § 4.
" 46 . . . . R. 1898, 218, § 2.
" 50 . . . . R. L. 48, § 110.
" 53 . . . . R. L. 100, § 80.
" 57 . . . . S. 1898, 294.
" 58 . . . . R. L. 23, § 18.
" 61 . . . . S. 1888, 89; 1899, 216.
" 63 . . . . S. 1889, 237.
" 67 . . . . R. L. 208, § 60.
" 72 . . . . R. 1893, 469, § 4.
" 74, § 1 . . R. L. 165, § 88; R. in part, 1901, 329.
" 74, § 2 . . S. 1892, 133.
" 75 . . . . Special.
" 83 . . . . S. 1891, 411, § 2.
" 86 . . . . S. 1890, 242.
" 87 . . . . R. L. 6, §§ 16, 17.

1887, c. 89 . . . . R. L. 116, § 38.
" 94 . . . . R. L. 56, § 76.
" 96 . . . . R. 1896, 268, § 3.
" 97 . . . . R. L. 7, § 13.
" 98 . . . . R. L. 97, §§ 1–13, except
" 98, § 17 . . T.
" 103 . . . . S. & R. 1888, 305; 1894, 508, § 80.
" 105, §§ 1, 3 . R. 1900, 159, § 3.
" 105, § 2 . . S. 1890, 30.
" 105, § 4 . . S. 1899, 360.
" 110 . . . . S. 1888, 390.
" 111 . . . . Acted on.
" 112 . . . . R. L. 165, § 34.
" 113 . . . . R. 1894, 317, § 53.
" 116 . . . . S. 1895, 193.
" 117 . . . . S. 1894, 470.
" 118 . . . . R. L. 9, § 11.
" 120 . . . . Acted on.
" 121 . . . . R. 1894, 508, § 80.
" 122 . . . . R. 1889, 301, § 10.
" 123 . . . . S. Res. 1898, c. 66.
" 124 . . . . R. L. 50, §§ 20–22.
" 125 . . . . R. L. 12, § 23, cl. 2.
" 127 . . . . R. L. 108, § 5; S. in part, 1892, 128; 1895, 284, § 1.
" 128 . . . . R. L. 10, §§ 6, 9, 17; S. in part, 1893, 358, 409; 1895, 284, §§ 1, 2.
" 135 . . . . R. L. 102, § 133.
" 137, §§ 1, 2 . R. L. 76, §§ 24, 25.
" 137, § 3 . . T.
" 137, § 4 . . S. 1897, 187, § 1.
" 137, § 5 . . R. L. 76, § 28.
" 137, § 6 . . S. 1897, 187, § 2.
" 137, § 7 . . R. L. 76, § 27.
" 137, § 8 . . S. 1900, 294, § 2.
" 137, § 9 . . R. L. 76, § 29.
" 140 . . . . O.
" 142 . . . . R. 1888, 390, § 95.
" 143 . . . . R. L. 208, § 77.
" 147 . . . . R. 1890, 423, § 228.
" 149 . . . . R. L. 176, § 28.
" 153 . . . . T.
" 156 . . . . S. 1894, 66.
" 159 . . . . R. L. 21, § 2.
" 160 . . . . R. L. 7, § 13; S. in part, 1889, 238; 1892, 233; 1898, 235.
" 162 . . . . R. L. 52, § 1.
" 163 . . . . R. L. 160, § 67.
" 164 . . . . S. 1894, 415.
" 166 . . . . R. 1893, 469, § 4.
" 170 . . . . R. L. 87, § 29.
" 171 . . . . S. 1897, 359.
" 173 . . . . R. 1894, 508, § 80.
" 174 . . . . S. 1893, 479.
" 175 . . . . S. 1901, 372.
" 179 . . . . R. 1888, 239, § 2.
" 180 . . . . S. 1891, 161.
" 183 . . . . Acted on.
" 190 . . . . S. 1899, 314.
" 191 . . . . R. L. 111, § 63.
" 193, § 1 . . R. L. 91, § 128.
" 193, § 2 . . R. L. 91, § 124.
" 193, § 3 . . S. 1891, 137.
" 193, § 4 . . R. L. 91, § 130.
" 193, § 5 . . S. 1899, 360.
" 196 . . . . R. 1894, 317, § 53.
" 197 . . . . S. 1890, 229.
" 199 . . . . S. 1893, 190.
" 202, § 1 . . R. 1897, 439, § 14.
" 202, §§ 2–5 . R. 1897, 444, § 31.
" 204 . . . . R. L. 67, § 30.
" 206 . . . . R. L. 100, § 88.

1887, c. 207 . . . . Declaratory and repealing statute.
" 208 . . . . S. 1893, 479.
" 209 . . . . S. 1892, 287.
" 211 . . . . R. L. 20, § 14.
" 212 . . . . Special.
" 214 . . . . S. 1894, 522, and earlier statutes.
" 215 . . . . R. 1894, 508, § 80.
" 216, § 1 . . R. L. 114, § 4.
" 216, § 2 . . R. L. 114, § 9.
" 216, § 3 . . R. L. 114, § 5.
" 216, § 4 . . R. L. 114, § 17.
" 216, § 5 . . S. 1898, 247, § 3.
" 217 . . . . R. 1893, 422, § 2.
" 218 . . . . R. L. 108, § 8; S. in part, 1894, 481, § 2.
" 219 . . . . R. 1887, 276, § 2.
" 221 . . . . S. 1891, 429.
" 225 . . . . S. 1896, 369.
" 226 . . . . R. L. 12, § 55.
" 227 . . . . S. 1894, 374.
" 228 . . . . R. L. 14, § 61.
" 231 . . . . R. 1894, 444, § 10.
" 232 . . . . R. L. 100, § 67.
" 234 . . . . R. L. 108, §§ 32–35, except
" 234, § 3 . . Special.
" 239 . . . . R. L. 87, § 84.
" 243 . . . . S. 1895, 369.
" 245 . . . . S. 1892, 143.
" 246 . . . . R. L. 201, §§ 1, 2.
" 248 . . . . R. L. 71, §§ 3, 7, 8, 11.
" 249 . . . . R. 1890, 423, § 228.
" 250 . . . . T.
" 252 . . . . R. 1894, 491, § 59.
" 256 . . . . S. 1894, 481, § 1.
" 259 . . . . R. 1893, 469, § 4.
" 262 . . . . T.
" 263 . . . . R. L. 8, § 5, cl. 9.
" 264 . . . . Acted on.
" 265 . . . . R. L. 160, § 67.
" 266 . . . . R. 1888, 248, § 2.
" 267 . . . . R. 1896, 397, § 24.
" 269, § 1 . . R. L. 106, § 1; S. in part, 1888, 261.
" 269, § 2 . . R. L. 106, § 3.
" 269, § 3 . . S. 1890, 385.
" 269, § 4 . . R. L. 106, §§ 2, 7.
" 269, § 5 . . R. L. 106, §§ 1, 2, 6.
" 270, § 1 . . S. 1892, 260, § 1.
" 270, § 2 . . R. L. 106, § 73.
" 270, § 3 . . S. 1892, 260, § 2.
" 270, §§ 4–7 . R. L. 106, §§ 76–79.
" 272 . . . . R. 1890, 423, § 228.
" 273 . . . . R. 1893, 469, § 4.
" 274, §§ 1, 3 . Special.
" 274, § 2 . . S. 1889, 92.
" 276 . . . . R. by repeal of P. S. 104, § 13 by 1894, 481.
" 277, § 1 . . R. L. 69, § 11.
" 277, § 2 . . S. 1895, 348, § 6.
" 277, § 3 . . R. L. 69, § 13; S. in part, 1895, 348, § 1.
" 280 . . . . R. 1894, 508, § 80.
" 281 . . . . R. 1900, 399, § 2.
" 283, § 1 . . R. L. 14, §§ 24, 54, 63.
" 283, § 2 . . R. L. 14, § 32; S. in part, 1894, 522, § 92.
" 283, § 3 . . R. L. 14, § 34.
" 286 . . . . R. L. 184, § 49.
" 289 . . . . R. L. 165, § 54.
" 290 . . . . R. 1899, 479, § 13.
" 291 . . . . R. L. 165, §§ 15, 31, 34.
" 292, § 1 . . R. L. 225, § 83.
1887, c. 292, § 2 . . R. L. 225, §§ 122, 129.
" 293 . . . . S. 1893, 396, §§ 34, 36, 39.
" 295 . . . . R. L. 111, § 136.
" 298 . . . . R. L. 67, §§ 9, 30.
" 300 . . . . S. 1901, 141.
" 307 . . . . R. L. 102, § 131.
" 310, § 1 . . R. L. 24, § 21.
" 310, § 2 . . R. L. 24, §§ 10, 26.
" 310, § 3 . . S. 1890, 71.
" 314 . . . . S. 1900, 428, § 1.
" 315 . . . . R. L. 225, § 136.
" 318 . . . . R. L. 160, § 67.
" 319 . . . . R. 1894, 317, § 53.
" 320 . . . . R. L. 152, § 39.
" 322 . . . . R. L. 160, § 2.
" 323 . . . . R. L. 100, § 15.
" 327 . . . . Special and S. in part, 1894. 379.
" 329 . . . . Acted on.
" 330 . . . . R. 1894, 508, § 80.
" 332, § 1 . . R. L. 152, §§ 6, 29, 30.
" 332, § 2 . . R. L. 153, §§ 12, 31, 32, 37; 162, § 4.
" 332, § 3 . . R. L. 162, § 18.
" 332, § 4 . . R. L. 173, § 106.
" 332, § 5 . . T.
" 334, §§ 1–3 . R. L. 111, §§ 8, 169.
" 334, § 4 . . R. L. 111, § 10.
" 335 . . . . R. 1897, 437, § 8.
" 336 . . . . O.
" 338 . . . . R. L. 75, §§ 75, 80, 81.
" 339 . . . . R. L. 210, § 23.
" 340, § 1 . . R. L. 147, §§ 21, 22.
" 340, § 2 . . S. 1897, 326.
" 341 . . . . R. L. 223, § 39.
" 342, § 1 . . S. 1890, 160.
" 342, § 2 . . S. 1891, 342.
" 345 . . . . R. L. 26, § 24.
" 346, § 1 . . R. L. 87, § 31; S. in part, 1897, 451, § 3.
" 346, § 2 . . S. 1896, 482.
" 347 . . . . R. L. 167, § 12.
" 348 . . . . R. L. 33, § 19.
" 355 . . . . R. L. 223, § 4.
" 361 . . . . R. 1891, 125, § 4.
" 362 . . . . R. L. 111, § 212; S. in part, 1891, 249.
" 364 . . . . R. L. 18, § 1.
" 365 . . . . R. L. 100, § 39.
" 366 . . . . S. 1896, 409.
" 367 . . . . R. L. 84, § 8; S. in part, 1898, 433, § 11.
" 371 . . . . R. 1890, 423, § 228.
" 373 . . . . S. 1889, 286.
" 375 . . . . R. L. 225, § 117.
" 380 . . . . S. 1895, 419, § 10.
" 382 . . . . R. L. 121, except
" 382, § 3 . . S. 1892, 274.
" 383 . . . . Omitted by committee on revision.
" 385 . . . . R. L. 121, §§ 5, 14–23.
" 391, §§ 1, 2 . R. 1895, 434, § 5.
" 391, § 3 . . R. L. 98, § 4.
" 391, § 4 . . Acted on.
" 392 . . . . R. L. 100, § 53; S. in part, 1896, 397, § 16.
" 393 . . . . R. L. 52, §§ 32, 33.
" 395 . . . . R. L. 225, § 136.
" 399 . . . . R. 1894, 508, § 80.
" 401 . . . . S. 1893, 197, § 2.
" 404 . . . . R. L. 36, §§ 5, 13, 47–54, except
" 404, § 3 . . S. 1895, 105.
" 406 . . . . S. 1888, 297.
" 407 . . . . R. L. 178, §§ 31, 32.

1887, c. 411 . . . . R. 1893, 367, § 167.
" 414, §§ 1, 2 . R. L. 100, §§ 65, 66.
" 414, § 3 . . R. L. 101, § 9.
" 418 . . . . R. L. 134, § 20.
" 419 . . . . S. 1897, 241.
" 420 . . . . R. 1899, 310, § 3.
" 422 . . . . R. L. 65, § 18; 212, § 52.
" 423 . . . . R. 1888, 90, § 2.
" 426, § 1 . . S. 1896, 304.
" 426, § 2 . . R. L. 86, § 35.
" 430 . . . . R. L. 111, § 94.
" 431 . . . . R. 1896, 397, § 24.
" 432 . . . . R. 1890, 423, § 228.
" 433, § 1 . . R. 1888, 348, § 12.
" 433, § 2 . . S. 1889, 135.
" 433, § 3 . . S. 1894, 508, § 25.
" 433, § 4 . . R. L. 42, § 13.
" 435, § 1 . . R. L. 220, § 21.
" 435, §§ 2, 3 . R. L. 225, §§ 116, 127–129.
" 436, § 1 . . R. L. 212, § 27.
" 436, § 2 . . R. L. 218, §§ 39, 44.
" 437 . . . . R. 1896, 517, § 8.
" 438, § 1 . . R. L. 21, § 45.
" 438, § 2 . . S. 1890, 306.
" 438, § 3 . . R. L. 21, §§ 47, 48.
" 438, § 4 . . R. L. 21, § 48; S. in part, 1890, 216, § 2.
" 438, § 5 . . R. L. 160, § 61; 161, § 59; S. in part, 1890, 216; 1893, 369, § 9.
" 438, §§ 6, 7 . R. L. 21, §§ 48–50.
" 440 . . . . R. L. 85, §§ 10, 11; S. in part, 1898, 433, § 24; 1900, 333.
" 441, § 1 . . T.
" 441, § 2 . . R. L. 87, § 124; R. & S. in part, 1890, 354.
" 441, § 3 . . R. L. 87, § 125; S. in part, 1898, 433, § 24.
" 441, § 4 . . S. 1889, 230, § 2.
" 441, § 5 . . T.
" 442, § 1 . . R. L. 168, § 18; S. in part, 1889, 415, § 1.
" 442, § 2 . . R. L. 168, §§ 18, 20.
" 442, § 3 . . R. L. 168, § 70.
" 442, § 4 . . R. L. 168, § 20.
" 443 . . . . R. 1888, 434, § 6.
" 445 . . . . R. L. 102, § 180.
" 446 . . . . R. L. 102, § 184.
" 447, §§ 1–3 . R. L. 225, §§ 43, 44, 51, 57.
" 447, § 4 . . R. L. 225, § 57.
" 447, § 5 . . R. 1891, 228, § 2.
" 447, § 6 . . S. & R. 1895, 322, § 2; 1901, 364, § 4.
" 447, § 7 . . R. 1888, 403, § 6.
" 447, § 8 . . S. 1888, 403, § 2.
" 447, § 9 . . R. L. 225, §§ 51, 52.
" 447, §§ 10, 11, R. L. 225, § 56.
" 447, § 12 . . S. 1888, 403, § 4.
" 447, § 13 . . R. L. 225, §§ 45, 52, 54; S. in part, 1898, 334, § 1.
" 447, § 14 . . R. L. 222, § 9.
" 447, § 15 . . S. 1901, 364.
" 447, § 16 . . T.
" 448, § 1 . . R. 1892, 388, § 2.
" 448, § 2 . . R. 1895, 419, § 14.
" 449 . . . . R. L. 56, § 49.
1888, c. 1 . . . . R. L. 3, § 12.
" 22 . . . . R. L. 225, § 43.
" 23 . . . . R. 1889, 440, § 14.
" 24 . . . . R. 1897, 114, § 2.
" 40 . . . . R. 1894, 317, § 53.
" 41 . . . . S. 1889, 177.
" 46 . . . . R. L. 198, § 23.
" 49 . . . . R. L. 220, § 27.
" 50 . . . . R. L. 160, § 67.
1888, c. 51 . . . . R. 1894, 317, § 53.
" 53 . . . . R. 1894, 317, § 53.
" 54 . . . . S. 1893, 479.
" 55 . . . . R. L. 160, § 67.
" 58 . . . . S. 1892, 271.
" 59 . . . . R. L. 160, § 2.
" 60 . . . . R. L. 160, § 67.
" 63 . . . . S. & R. 1888, 306, § 1; 1897, 444, § 31.
" 65 . . . . R. L. 20, § 14.
" 67 . . . . R. L. 163, § 113.
" 69 . . . . S. 1898, 433.
" 70 . . . . Special.
" 84 . . . . S. 1894, 522, § 5.
" 85 . . . . R. 1889, 440, § 14.
" 86 . . . . R. 1892, 419, § 138.
" 88 . . . . S. 1893, 479.
" 89 . . . . S. 1899, 217.
" 90 . . . . R. 1894, 317, § 53.
" 94 . . . . R. L. 173, § 115; 219, § 36.
" 95 . . . . S. 1898, 324.
" 96 . . . . R. 1894, 317, § 53.
" 105 . . . . S. 1893, 477; 1894, 455.
" 110 . . . . S. 1893, 479.
" 112 . . . . R. 1893, 469, § 4.
" 113 . . . . R. 1894, 481, § 63.
" 114 . . . . S. 1894, 422.
" 115 . . . . S. 1897, 430.
" 116 . . . . R. L. 110, § 11.
" 120 . . . . R. 1894, 317, § 53.
" 122 . . . . R. 1889, 440, § 14.
" 123 . . . . R. 1897, 515, § 10.
" 127 . . . . R. 1894, 317, § 53.
" 134 . . . . R. L. 125, §§ 13–16.
" 135 . . . . R. L. 208, §§ 14, 15.
" 139 . . . . R. L. 100, §§ 36, 37.
" 141 . . . . S. 1894, 133, § 2.
" 146 . . . . R. 1890, 423, § 228.
" 148, § 1 . . R. L. 139, § 2; S. in part, 1888, 380.
" 148, § 2 . . R. L. 146, § 15.
" 149 . . . . S. & R. 1891, 261; 1894, 508, § 80.
" 151 . . . . S. 1891, 291.
" 152 . . . . R. 1893, 469, § 4.
" 153 . . . . R. L. 165, §§ 6, 35.
" 154 . . . . S. 1894, 522, § 84.
" 155 . . . . S. 1892, 260, § 2.
" 157 . . . . R. L. 7, § 12; S. in part, 1893, 138; 1895, 424.
" 158 . . . . S. 1889, 465.
" 160 . . . . R. L. 25, § 14.
" 163 . . . . R. L. 56, §§ 29–34.
" 164 . . . . R. 1890, 423, § 228.
" 165 . . . . S. 1894, 522, § 28.
" 170 . . . . Special.
" 173 . . . . R. L. 160, § 67.
" 174 . . . . S. 1892, 347.
" 176 . . . . R. L. 111, § 235.
" 177 . . . . R. L. 125, §§ 3, 7.
" 180 . . . . S. 1890, 440, §§ 6, 8; 1891, 325, § 1; 1893, 396, § 9.
" 181 . . . . R. L. 108, §§ 32–34.
" 184 . . . . S. 1895, 260.
" 186 . . . . R. 1889, 440, § 14.
" 188 . . . . Acted on.
" 189 . . . . R. L. 225, § 26.
" 191 . . . . S. 1889, 440.
" 192 . . . . R. L. 225, §§ 118, 129.
" 193 . . . . Special, except
" 193, § 4 . . R. L. 160, § 67.
" 195 . . . . R. L. 160, § 67.
" 199 . . . . R. 1889, 451, § 8.
" 200 . . . . R. 1890, 423, § 228.

1888, c. 203 . . . . R. 1890, 423, § 228.
" 206 . . . . R. 1890, 423, § 228.
" 207 . . . . R. 1888, 426, § 14.
" 209 . . . . R. 1896, 397, § 24.
" 211, § 1 . . R. L. 161, § 49.
" 211, §§ 2–5 . R. L. 161, §§ 61–63.
" 211, § 6 . . R. L. 165, § 24.
" 212 . . . . Special.
" 213 . . . . R. 1894, 317, § 53.
" 214 . . . . R. L. 160, § 67.
" 219 . . . . R. L. 100, § 2.
" 220 . . . . R. L. 32, § 46.
" 221 . . . . R. 1893, 423, § 1.
" 223 . . . . Special.
" 228 . . . . R. L. 23, § 18.
" 233 . . . . S. 1891, 107; 1894, 336.
" 234 . . . . S. 1897, 324.
" 235 . . . . S. 1900, 400.
" 238 . . . . R. 1896, 268, § 3 (impliedly).
" 239 . . . . R. L. 39, § 19.
" 240 . . . . R. L. 111, § 192.
" 243 . . . . R. L. 102, § 36.
" 244 . . . . R. L. 23, § 18.
" 246 . . . . R. L. 160, § 67.
" 248 . . . . S. 1898, 496, § 35.
" 249 . . . . R. L. 160, § 2.
" 250 . . . . Special, except
" 250, § 2 . . S. 1894, 317, § 21, cl. 3, h.
" 253 . . . . R. L. 19, § 8.
" 254, § 1 . . . S. 1889, 347.
" 254, § 2 . . R. L. 100, §§ 17, 53.
" 256 . . . . R. 1889, 440, § 14.
" 257, §§ 1, 2 . R. L. 165, §§ 34, 37.
" 257, § 3 . . R. 1891, 87, § 2.
" 257, § 4 . . R. L. 165, § 31.
" 257, § 5 . . R. L. 165, § 41; 204, § 6.
" 257, § 6 . . S. 1890, 440.
" 257, §§ 7, 8 . R. L. 204, §§ 8, 9.
" 261 . . . . R. L. 106, § 1.
" 262 . . . . R. L. 100, § 17.
" 264 . . . . S. 1889, 412.
" 267, § 1 . . S. 1899, 470.
" 267, § 2 . . R. L. 7, § 14; S. in part, 1895, 424.
" 269 . . . . R. 1900, 209, § 2.
" 273 . . . . R. L. 134, § 5.
" 274, § 1 . . R. 1892, 104, § 2.
" 274, § 2 . . R. 1892, 328, § 2.
" 275, § 1 . . R. L. 21, § 49.
" 275, § 2 . . S. 1891, 292, § 1.
" 276 . . . . R. 1890, 193, § 2.
" 277 . . . . S. 1890, 440.
" 278, § 1 . . R. L. 112, § 78.
" 278, § 2 . . T.
" 280 . . . . R. L. 164, § 29.
" 282 . . . . R. L. 165, § 61.
" 283 . . . . R. L. 100, § 42.
" 285 . . . . S. 1890, 440, § 11.
" 287, § 1 . . S. 1892, 234.
" 287, § 2 . . R. L. 91, § 139.
" 288 . . . . R. 1889, 275, § 2.
" 289 . . . . R. L. 7, § 13.
" 290, §§ 1, 2, 4, 5 . . . R. L. 162, §§ 10–12, 27.
" 290, § 3 . . T.
" 291 . . . . S. 1901, 527.
" 292 . . . . R. 1891, 142, § 2.
" 296 . . . . R. 1896, 297, § 8.
" 297 . . . . R. L. 100, §§ 72, 75, 82.
" 301, § 1 . . Special, except
" 301, § 6 . . S. 1894, 317, § 21, cl. 4, a.
" 304 . . . . R. L. 38, §§ 7–10, except
" 304, § 2 . . S. 1889, 112.
" 304, § 3 . . S. 1893, 417, § 290.

1888, c. 305 . . . . R. 1894, 508, § 80.
" 306, § 1 . . R. 1897, 444, § 31.
" 306, § 2 . . R. 1897, 437, § 8.
" 307 . . . . R. 1897, 439, § 14.
" 308, § 1 . . R. L. 26, § 17.
" 308, § 2 . . T.
" 310, § 1 . . S. 1898, 165.
" 310, §§ 2, 3 . R. L. 32, §§ 43, 44.
" 311 . . . . R. L. 212, §§ 8, 9.
" 313 . . . . R. L. 52, § 18.
" 314, § 1 . . R. L. 157, § 24; S. in part, 1899, 140.
" 314, § 2 . . T.
" 314, §§ 3, 4 . R. L. 157, §§ 24, 27.
" 315 . . . . R. L. 12, §§ 73, 74.
" 316 . . . . S. 1893, 199.
" 317 . . . . R. L. 225, § 117.
" 318, § 1 . . R. L. 96, § 27.
" 318, §§ 2, 3 . R. L. 96, §§ 15, 16.
" 318, § 4 . . R. L. 96, § 18.
" 318, §§ 5–7 . R. L. 96, §§ 19–22, 24–26.
" 320 . . . . R. L. 102, §§ 133, 134.
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" 322, § 1 . . R. L. 6, § 35.
" 322, § 2 . . R. L. 225, § 136.
" 323 . . . . R. L. 12, § 41.
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" 326 . . . . R. L. 36, § 5.
" 327 . . . . R. L. 223, § 39.
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" 329 . . . . S. 1898, 533, § 4.
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" 330, § 2 . . R. L. 225, § 137.
" 331 . . . . R. L. 91, § 68.
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" 335 . . . . S. 1889, 408.
" 336 . . . . R. L. 25, §§ 7–11; S. in part, 1901, 469.
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" 344 . . . . R. L. 197, §§ 9, 12, 13.
" 345 . . . . R. L. 189, § 33.
" 346, § 1 . . R. L. 184, § 2.
" 346, § 2 . . O.
" 346, § 3 . . R. L. 184, § 57.
" 348 . . . . R. 1894, 508, § 80.
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" 352 . . . . S. 1893, 396, § 67.
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" 355 . . . . R. 1894, 317, § 53.
" 357 . . . . R. L. 165, §§ 72, 74.
" 362 . . . . R. L. 12, § 85.
" 363 . . . . R. L. 12, § 4.
" 365 . . . . R. 1896, 302, § 2.
" 366 . . . . R. 1892, 366, § 7.
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" 371 . . . . R. L. 165, § 77.
" 372 . . . . R. L. 74, § 6.
" 375, § 1 . . R. L. 75, §§ 4, 112, 115, 116; S. in part, 1897, 510, § 2.
" 375, § 2 . . R. L. 75, §§ 113, 115, 116; S. in part, 1890, 441, § 1; 1897, 510, § 1.
" 375, § 3 . . R. L. 75, §§ 115, 117.
" 375, § 4 . . R. L. 75, § 117.
" 375, § 5 . . Acted on.
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" 379 . . . . S. 1893, 186.
" 380 . . . . R. L. 139, § 2; 146, § 15.
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" 385 . . . . R. L. 5, § 1.
" 387 . . . . R. L. 117.
" 388 . . . . S. 1892, 428, § 1.
" 389, § 1 . . S. 1894, 481, § 1.
" 389, § 2 . . R. 1897, 288, § 3.
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" 390, § 34 . . R. 1899, 425, § 3.
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" 390, § 92 . . R. L. 13, § 8; S. in part, 1892, 370, § 3.
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" 403, § 4 . . R. L. 225, § 58.
" 403, § 6 . . Acted on.
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" 405, § 3 . . R. L. 177, § 26; 193, § 24; R. in part, 1895, 234, § 27.
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" 413, § 6 . . R. L. 116, § 12; S. in part, 1890, 315, § 1.
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" 413, § 24 . . R. L. 14, §§ 38, 40.
" 413, § 25 . . R. L. 116, § 11.
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" 413, § 27 . . R. L. 110, § 16.
" 414, § 1 . . R. L. 57, § 25.
" 414, § 2 . . R. L. 62, § 5; S. in part, 1894, 198, § 6.
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" 419, §§ 7–10 . R. L. 168, §§ 33, 35, 36, 57.
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" 420 . . . . R. L. 148, § 24.
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" 431, § 4 . . S. 1890, 379.
" 431, § 5 . . S. 1898, 466, § 5.
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" 58 . . . . R. L. 21, § 2.
" 62 . . . . R. L. 160, § 67.
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" 109, § 6 . . T.
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" 115 . . . . R. L. 12, § 51.
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" 123 . . . . R. L. 86, § 44.
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" 218 . . . . R. L. 160, § 67.
" 222, § 1 . . Acted on.
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" 267 . . . . R. 1894, 461, § 5.
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" 287 . . . . R. L. 157, § 24.
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" 291 . . . . R. 1894, 508, § 80.
" 294 . . . . R. L. 223, § 40.
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" 299 . . . . R. L. 78, § 3.
" 301 . . . . R. 1894, 301, § 10.
" 303 . . . . R. L. 20, § 14.
" 305 . . . . R. 1894, 317, § 53.
" 308 . . . . R. L. 157, § 24.
" 309, § 1 . . R. L. 83, § 10.
" 309, § 2 . . S. 1891, 194.
" 309, §§ 3, 4 . R. L. 83, §§ 18, 19.
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" 312 . . . . R. L. 160, § 2.
" 313 . . . . R. L. 163, § 53.
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" 316, § 2 . . R. L. 109, § 25; 112, § 21
" 316, §§ 3, 4 . R. L. 112, §§ 23, 24.
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" 326 . . . . R. L. 213, § 5.
" 327 . . . . S. 1898, 355.
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" 328, § 2 . . R. L. 111, § 26.
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" 334, § 14 . . R. L. 13, § 52.
" 334, § 15 . . R. L. 13, §§ 70, 72.
" 334, § 16 . . R. L. 13, § 87.
" 334, § 17 . . T.
" 339 . . . . S. 1893, 291.
" 342 . . . . R. L. 116, § 14.
" 344 . . . . R. L. 100, § 44.
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" 348 . . . . R. L. 12, § 19.
" 349 . . . . S. 1901, 211.
" 351 . . . . R. L. 19, § 2.
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" 370 . . . . R. L. 75, § 3.
" 371 . . . . R. L. 111, § 195.
" 372 . . . . S. 1893, 23.
" 373 . . . . R. L. 121, § 1.
" 374 . . . . T.
" 377 . . . . R. L. 25, § 14.
" 378 . . . . S. 1894, 522, § 64.
" 380 . . . . R. L. 25, § 15.
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" 384 . . . . R. L. 25, § 63.
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" 391 . . . . R. L. 91, § 85.
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" 406, § 3 . . R. L. 163, §§ 152, 156.
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" 414, § 17 . . R. L. 87, § 76.
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" 415, § 3 . . S. 1890, 128.
" 415, § 4 . . R. L. 168, § 39.
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" 416 . . . . R. 1892, 318, § 16.
" 417 . . . . R. 1895, 394, § 9.
" 418 . . . . R. 1892, 230, § 2.
" 420 . . . . R. L. 163, § 38.
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" 433 . . . . T.
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" 435 . . . . R. L. 136, § 3.
" 440 . . . . R. 1894, 393, § 15.
" 442 . . . . R. L. 182, §§ 11–14.
" 444 . . . . R. L. 165, § 5; S. in part, 1900, 329.
" 446 . . . . R. L. 12, § 23, cl. 2.
" 447 . . . . R. L. 152, § 1.
" 448 . . . . R. L. 22, § 15.
" 449 . . . . R. in part, 1894, 317, § 53. Inapplicable to trust companies.
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" 452, § 2 . . R. L. 126, § 8.
" 452, § 3 . . R. L. 126, § 8; S. in part, 1890, 310, § 4.
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" 457 . . . . R. L. 65, § 21.
" 458 . . . . R. L. 208, § 26.
" 459 . . . . R. 1896, 401, § 2.
" 461 . . . . S. 1895, 256; 1896, 412.
" 462 . . . . R. L. 145, § 42; 147, § 14.
" 464 . . . . R. 1894, 498, § 30.
" 465 . . . . R. L. 12, § 5, cls. 3, 5.
" 466 . . . . R. 1895, 288.
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" 468 . . . . R. L. 184, §§ 12, 22.
" 469 . . . . R. L. 204, § 19; S. in part, 1890, 440.
" 470 . . . . R. L. 167, § 120.
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" 471, § 3 . . R. L. 165, § 63.
" 471, § 4 . . R. 1892, 380, § 2.
" 473 . . . . R. 1896, 517, § 8.
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" 44 . . . . R. 1894, 317, § 53.
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" 58, § 2 . . R. L. 6, § 35; R. in part, 1891, 54, § 2.
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" 70 . . . . R. 1894, 433, § 3.
" 71 . . . . S. 1898, 354.
" 72 . . . . R. L. 102, § 130.
" 73 . . . . R. L. 102, § 4.
" 74 . . . . R. L. 75, § 70.
" 78 . . . . S. 1896, 277.
" 83 . . . . R. 1894, 481, § 63.
" 90 . . . . R. 1894, 508, § 80.
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" 93 . . . . S. 1893, 479.
" 95 . . . . R. 1891, 210, § 11.
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" 97, § 2 . . T.
" 102 . . . . R. L. 75, § 49.
" 104 . . . . R. L. 72, §§ 10, 12.
" 105 . . . . R. L. 153, § 19.
" 111 . . . . R. L. 42, § 20.
" 115 . . . . R. 1893, 469, § 4.
" 119 . . . . R. L. 25, § 14.
" 124 . . . . R. L. 49, § 1.
" 126 . . . . S. 1893, 70.
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" 127, § 6 . . R. L. 12, § 76.
" 127, § 7 . . R. L. 14, § 39.
" 128 . . . . R. L. 168, §§ 20, 21; S. in part, 1897, 382.
" 129 . . . . R. L. 91, § 8.
" 131 . . . . R. L. 160, § 67.
" 132 . . . . R. L. 49, § 30.
" 133 . . . . R. L. 20, § 14.
" 137 . . . . R. L. 108, § 3; S. in part, 1892, 249.
" 141 . . . . R. 1897, 153, § 14.
" 143 . . . . S. 1892, 205.
" 154 . . . . R. L. 173, § 77.
" 159 . . . . R. L. 60, §§ 1–5, 15, 18.
" 160, § 1 . . R. L. 14, § 1.
" 160, §§ 2, 3 . T.
" 160, § 4 . . R. L. 14, §§ 19, 20.
" 160, § 5 . . Acted on.
" 166 . . . . R. L. 25, § 41.

1890, c. 168 . . . . R. 1894, 317, § 53.
" 173 . . . . R. L. 111, § 188.
" 175 . . . . R. 1890, 423, § 228.
" 177 . . . . Special, except
" 177, § 3 . . R. L. 160, § 67.
" 179 . . . . R. 1894, 481, § 63.
" 180 . . . . R. L. 225, §§ 81, 104–106.
" 181 . . . . R. L. 125, §§ 17, 19.
" 183 . . . . S. 1892, 83.
" 191 . . . . R. L. 125, § 3.
" 192 . . . . R. L. 164, § 29.
" 193 . . . . S. 1891, 138.
" 196 . . . . R. L. 53, §§ 9–11, except § 2, S. 1891, 49; S. as to towns, 1899, 330, and earlier statutes.
" 197, § 1 . . R. L. 14, § 30.
" 197, § 2 . . S. 1892, 129.
" 198 . . . . R. L. 20, § 19.
" 199 . . . . R. L. 110, § 51.
" 200 . . . . R. 1901, 54.
" 201 . . . . S. 1892, 187.
" 202 . . . . R. L. 160, § 48; 161, § 56.
" 204 . . . . R. L. 161, § 59; S. in part, 1893, 396, § 9.
" 206, § 1 . . S. 1897, 128, § 4.
" 206, §§ 2, 3 . R. L. 21, §§ 9–11.
" 206, § 4 . . T.
" 209, § 1 . . R. L. 21, § 16.
" 209, § 2 . . R. L. 204, § 6.
" 209, § 3 . . R. L. 21, § 19.
" 209, § 4 . . T.
" 213 . . . . R. L. 24, § 7.
" 215 . . . . R. L. 21, § 22.
" 216, § 1 . . R. L. 160, § 61; 161, § 59.
" 216, § 2 . . R. L. 21, § 50; 160, §§ 48, 61.
" 218, § 1 . . R. L. 221, § 11.
" 218, § 2 . . R. L. 221, § 7.
" 219 . . . . R. 1890, 423, § 228.
" 222 . . . . R. 1894, 317, § 53.
" 223 . . . . R. 1890, 423, § 228.
" 224 . . . . S. 1893, 396, § 29.
" 225 . . . . R. L. 217, § 24.
" 227 . . . . R. 1897, 439, § 14.
" 229 . . . . R. 1891, 327.
" 230 . . . . S. 1890, 395.
" 231 . . . . R. L. 91, §§ 33, 78.
" 237, § 1 . . R. L. 92, § 23.
" 237, § 2 . . S. 1900, 128.
" 238 . . . . R. L. 160, § 67.
" 239 . . . . S. 1893, 112, § 1.
" 240 . . . . S. 1899, 253.
" 242 . . . . R. L. 12, §§ 58, 60.
" 243 . . . . R. L. 114, § 2.
" 247 . . . . S. 1894, 522, § 4.
" 249, § 1 . . R. 1891, 142, § 2.
" 249, § 2 . . R. L. 92, § 21.
" 251 . . . . T.
" 252 . . . . S. 1892, 67.
" 254 . . . . R. 1893, 417, § 345.
" 255 . . . . R. L. 223, §§ 21, 26.
" 256 . . . . R. L. 204, § 6.
" 259 . . . . R. L. 145, § 15.
" 261, § 1 . . R. L. 162, § 19.
" 261, § 2 . . R. L. 162, § 13.
" 261, § 3 . . R. L. 162, §§ 18, 27.
" 264 . . . . R. L. 78, §§ 21–25.
" 265 . . . . R. L. 137, § 2.
" 266 . . . . R. L. 146, § 18.
" 267 . . . . R. L. 225, § 11.
" 274 . . . . R. L. 124, § 6.
" 276 . . . . R. L. 57, §§ 45, 46.
" 277 . . . . R. L. 204, § 21.
1890, c. 278, § 1 . . R. L. 225, § 85.
" 278, § 2 . . R. L. 225, §§ 104, 122.
" 278, § 3 . . R. L. 225, § 105.
" 278, § 4 . . R. L. 225, §§ 108, 110.
" 284 . . . . R. L. 217, § 1.
" 289 . . . . R. L. 189, § 31.
" 293 . . . . S. 1891, 122.
" 294 . . . . R. L. 165, § 69.
" 296 . . . . R. L. 225, § 8.
" 297 . . . . R. L. 124, § 1.
" 298 . . . . R. 1894, 317, § 53.
" 299 . . . . R. 1894, 508, § 80.
" 300 . . . . R. L. 67, § 10.
" 302 . . . . R. L. 3, § 5.
" 304 . . . . S. 1894, 522, §§ 7, 82.
" 305 . . . . R. 1890, 423, § 228.
" 306 . . . . R. L. 21, §§ 46, 48; S. in part, 1895, 175; 1898, 477.
" 307 . . . . R. 1894, 481, § 63.
" 308 . . . . R. L. 22, § 7; S. in part, 1897, 128, § 1.
" 309 . . . . R. 1894, 498, § 30.
" 310, §§ 1, 4 . R. L. 114, § 1.
" 310, § 2 . . R. in part, 1896, 286.
" 310, § 3 . . T.
" 315, § 1 . . R. L. 116, §§ 13, 15.
" 315, § 2 . . R. L. 116, §§ 1, 2.
" 316, §§ 1–3 . R. L. 225, §§ 18–20.
" 316, § 4 . . S. 1899, 203.
" 316, § 5 . . R. L. 225, § 22. T. in part.
" 319 . . . . R. L. 26, § 19.
" 321 . . . . R. L. 163, §§ 143–146, 149.
" 326 . . . . R. L. 112, § 22.
" 328, § 1 . . R. L. 221, § 6; 225, § 6.
" 328, § 2 . . S. 1893, 396, § 53.
" 329 . . . . R. L. 126, § 8.
" 330 . . . . R. L. 165, § 32.
" 331 . . . . R. L. 13, §§ 13, 15.
" 332 . . . . R. L. 111, § 258.
" 334, § 1 . . R. L. 102, § 167.
" 334, § 2 . . R. L. 208, § 77.
" 335 . . . . R. L. 41, §§ 1, 3.
" 341 . . . . S. 1894, 367.
" 347, §§ 1, 2 . R. L. 38, §§ 11–13; S. in part, 1897, 134, §§ 1–2.
" 347, §§ 3–5 . R. L. 38, §§ 14, 16, 17.
" 347, § 6 . . R. L. 38, § 12. In part redundant.
" 353, § 1 . . R. L. 204, § 5.
" 353, § 2 . . S. 1890, 440; 1891, 325.
" 353, § 3 . . T.
" 354, §§ 1, 3 . T.
" 354, § 2 . . S. 1892, 407.
" 359 . . . . S. 1893, 396, § 59.
" 360 . . . . R. 1891, 87, § 2.
" 364 . . . . R. 1891, 366.
" 365 . . . . R. 1891, 179, § 5.
" 368 . . . . R. L. 111, §§ 117, 199.
" 369 . . . . R. 1894, 317, § 53.
" 370 . . . . S. 1898, 487.
" 371 . . . . R. L. 121, § 12; R. in part, 1894, 501.
" 373 . . . . R. L. 6, § 7.
" 374 . . . . S. 1895, 372.
" 375 . . . . S. 1891, 350.
" 377 . . . . R. L. 167, § 40.
" 378 . . . . R. L. 87, §§ 25, 27.
" 379 . . . . S. 1891, 272.
" 380, §§ 1, 2 . Acted on.
" 380, § 3 . . S. 1897, 129.
" 381 . . . . R. 1893, 417, § 345.
" 382 . . . . R. L. 111, § 280.
" 383 . . . . R. L. 197, § 30.
" 384 . . . . R. 1894, 188; 498. § 30.

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" 386	R. 1893, 417, § 345.
" 387	R. L. 163, §§ 157, 158.
" 388	R. L. 7, § 10.
" 390, § 3	S. 1898, 205.
" 391	R. L. 208, § 29.
" 392	R. 1897, 439, § 14.
" 393	R. 1893, 417, § 345.
" 394	R. 1894, 317, § 53.
" 395	R. L. 102, § 72; S. in part, 1891, 220; 1895, 213; 1897, 428, § 2.
" 398	R. L. 173, § 6.
" 400	S. 1894, 367, § 8.
" 402	R. 1897, 444, § 31.
" 403	R. L. 208, §§ 110, 111.
" 404	R. L. 122, §§ 16–19, except
" 404, § 2	S. 1899, 320.
" 406	T.
" 408, § 1	R. L. 150, § 26.
" 408, § 2	R. L. 137, § 8.
" 410	R. L. 208, § 109.
" 414, § 1	S. 1898, 433, § 14.
" 414, § 2	R. L. 87, § 50; S. in part, 1898, 433, § 28.
" 415	R. L. 4, § 9.
" 416	R. L. 102, §§ 46–50.
" 419, § 1	T.
" 419, § 2	S. 1890, 423, § 222.
" 420	R. L. 162, §§ 30, 40; 163, §§ 18, 19.
" 421, § 1	R. L. 120; R. & S. in part, 1899, 229, except
" 421, § 13	S. in part, 1896, 515, § 6.
" 421, § 17	R. L. 126, § 4.
" 421, § 20	S. 1895, 263.
" 421, § 21	S. 1899, 472.
" 423	R. 1893, 417, § 345.
" 425	S. 1893, 367.
" 426	R. L. 62, §§ 8–10, 12, 17, except
" 426, § 2	Omitted in part, as redundant.
" 426, §§ 3, 5	T.
" 426, § 9	S. 1901, 211.
" 427	R. L. 182, §§ 11, 15.
" 428, § 1	S. 1891, 262.
" 428, § 2	S. 1891, 33, § 1.
" 428, § 3	R. L. 111, § 151.
" 428, § 4	S. 1892, 312.
" 428, § 5	S. 1891, 123.
" 428, § 6	R. L. 111, § 154.
" 428, § 7	S. 1893, 283.
" 428, § 8	R. L. 111, §§ 150, 156.
" 428, § 9	R. L. 111, § 157.
" 428, § 10	S. 1896, 439, § 1.
" 428, § 11	R. L. 111, §§ 149, 159.
" 428, § 12	R. L. 111, § 160.
" 431	S. & R. 1893, 405, § 2; 1895, 209, § 2.
" 436	R. 1893, 417, § 345.
" 437, §§ 1, 3	R. L. 99, §§ 5, 7.
" 437, §§ 2, 4	S. 1901, 459.
" 438	R. 1894, 481, § 63.
" 439, § 1	S. 1893, 226, § 1.
" 439, § 2	S. & R. 1893, 226, § 2; 1894, 542, § 2.
" 440, § 1	R. L. 204, § 42.
" 440, § 2	R. L. 221, § 4; 204, § 43; S. in part, 1893, 396, § 53.
" 440, § 3	R. L. 221, § 6.
" 440, § 4	Superfluous.
" 440, § 5	R. 1891, 416, § 4.
" 440, § 6	R. L. 160, § 48; 161, § 54; 204, § 44; S. in part, 1893, 396, § 9.
1890, c. 440, § 7	R. L. 204, §§ 39, 45.
" 440, § 8	R. L. 161, § 54; S. in part, 1893, 396, § 9.
" 440, § 9	R. L. 204, §§ 42, 46.
" 440, § 10	R. L. 217, § 43; 219, §§ 25, 26.
" 440, § 11	S. 1891, 70.
" 440, § 12	R. L. 204, §§ 42, 49.
" 440, § 13	R. L. 204, § 55.
" 440, § 14	T.
" 441	R. 1897, 510, § 7.
" 443	R. L. 92, § 24.
" 445	T.
" 446	R. L. 100, § 60.
" 447	S. 1893, 279.
" 448	R. L. 65, except
" 448, § 9	R. 1894, 525, § 2.
" 449, §§ 1, 3	R. L. 64, §§ 6, 14.
" 449, § 2	S. 1891, 144.
" 450	T. See 1891, 274.
" 451	S. 1900, 418, § 2.
" 452	R. L. 217, § 3.
" 456, § 1	S. 1891, 223, § 1.
" 456, §§ 2–8	R. L. 3, §§ 24–26, 28–32.
1890, Res. c. 67	R. L. 16, § 147.
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" 15	R. L. 208, § 60.
" 24	R. L. 10, § 27.
" 31	R. 1893, 417, § 345.
" 32	R. 1893, 417, § 345.
" 33	R. L. 111, §§ 150, 151, 154.
" 38	R. L. 17, § 1.
" 49	R. L. 53, §§ 9, 10; S. in part, 1892, 147.
" 54, § 1	R. 1894, 245, § 2.
" 58, § 1	S. 1894, 280, § 6.
" 58, §§ 2, 3	R. L. 56, §§ 41, 42.
" 59	R. L. 152, § 40.
" 65	R. L. 12, §§ 58, 60.
" 70	S. 1893, 396, § 1.
" 71	S. 1899, 315.
" 74	R. 1893, 417, § 345.
" 76	R. 1894, 393, § 15.
" 78	R. L. 160, § 67.
" 79	S. 1893, 288.
" 80	S. 1892, 399.
" 84	R. L. 85, § 7; S. in part, 1897, 395, §§ 3, 4.
" 87	R. L. 204, § 6.
" 89	R. L. 156, § 27.
" 90, § 1	S. 1898, 425, § 5.
" 90, § 2	R. L. 81, § 33.
" 91	R. 1893, 469, § 4.
" 92	R. L. 165, § 35.
" 97	S. 1893, 380.
" 99	R. 1898, 496, § 36.
" 107	S. 1894, 336.
" 108	R. L. 160, § 67.
" 113	R. L. 7, § 12; S. in part, 1895, 424.
" 116	Extended, 1893, 149.
" 120	Acted on.
" 122	R. L. 91, § 89.
" 123	S. 1900, 463.
" 124	R. L. 124, § 3.
" 125	R. 1892, 410, § 3.
" 128	R. L. 91, § 73.
" 129	R. L. 111, § 194.
" 131	R. L. 176, § 4.
" 135	R. L. 91, § 56.
" 136	R. L. 57, § 82.
" 137	R. L. 91, § 129.
" 138	R. 1901, 142.
" 139	S. 1893, 396, § 23.
" 140	R. L. 19, § 3; 175, § 10.

1891, c. 142 . . . . R. 1894, 205, § 2.
" 144 . . . . R. L. 64, § 7.
" 153 . . . . S. 1898, 391.
" 154 . . . . R. L. 23, § 18.
" 155 . . . . R. 1893, 417, § 345.
" 158, § 1 . . R. L. 87, § 59; T. in part.
" 158, § 2 . . R. L. 87, § 88; S. in part, 1898, 433, § 28.
" 159 . . . . R. L. 42, § 28.
" 160 . . . . R. L. 160, § 67.
" 161 . . . . S. 1897, 318.
" 162 . . . . S. 1900, 265.
" 163 . . . . S. 1894, 367, § 8.
" 164 . . . . R. 1899, 194, § 9.
" 170 . . . . R. L. 48, §§ 58–64.
" 171 . . . . T.
" 174 . . . . T.
" 175 . . . . S. 1899, 271.
" 177 . . . . S. 1893, 272.
" 179 . . . . R. 1897, 419, § 5.
" 180 . . . . R. L. 166, § 15.
" 181 . . . . R. L. 165, § 77.
" 185 . . . . S. 1898, 479.
" 187 . . . . R. L. 21, § 43; S. in part, 1901, 364.
" 188 . . . . R. L. 75, § 50.
" 189, § 1 . . S. 1893, 397.
" 189, § 2 . . Acted on by inserting 1885, 240.
" 190 . . . . R. L. 160, § 67.
" 191 . . . . R. 1894, 393, § 15.
" 193 . . . . R. 1894, 393, § 15.
" 194 . . . . S. 1899, 276.
" 195 . . . . S. 1894, 522, § 80.
" 196 . . . . R. L. 79, § 22.
" 200 . . . . R. L. 220, § 24.
" 204 . . . . R. L. 111, § 189.
" 209 . . . . R. L. 225, § 29.
" 210, §§ 1–6, 8–11 . . . T.
" 210, § 7 . . R. L. 208, § 108.
" 216 . . . . R. L. 112, § 70.
" 218 . . . . R. L. 25, § 13.
" 220 . . . . R. L. 102, §§ 69, 70; S. in part, 1895, 213.
" 221 . . . . R. L. 27, § 6.
" 223 . . . . R. L. 3, §§ 23–26, 30.
" 225 . . . . R. L. 162, § 53.
" 227, §§ 1, 3, 4, R. L. 157, §§ 5, 26.
" 227, § 2 . . R. L. 173, §§ 96, 105, 106.
" 228, § 1 . . R. L. 225, § 51.
" 228, § 2 . . Acted on.
" 228, § 3 . . R. L. 225, § 57.
" 229 . . . . R. by repeal of 1889, 451, by 1894, 444, § 10.
" 232 . . . . S. 1893, 367.
" 233 . . . . R. 1901, 281.
" 234, § 1 . . R. L. 22, § 2.
" 234, §§ 2, 3 . T.
" 235 . . . . Special.
" 236 . . . . R. L. 165, § 31; 221, §§ 8–10.
" 238 . . . . R. 1893, 417, § 345.
" 239 . . . . R. 1894, 508, § 80.
" 242 . . . . R. 1892, 351, § 48.
" 244 . . . . R. L. 197, § 31.
" 249 . . . . R. L. 111, § 212.
" 254 . . . . R. L. 92, § 11; R. in part, 1892, 102, § 1.
" 256 . . . . R. 1893, 417, § 345.
" 257 . . . . R. L. 109, § 8.
" 259 . . . . R. L. 6, § 70.
" 260 . . . . T.
" 261 . . . . R. 1894, 508, § 80; R. by repeal of 1888, 149.
1891, c. 262 . . . . R. L. 111, § 149.
" 263 . . . . R. 1894, 436, § 5.
" 264 . . . . R. 1893, 417, § 345.
" 265 . . . . R. L. 36, § 49.
" 266 . . . . R. L. 96, §§ 25, 26.
" 269 . . . . R. 1893, 417, § 345.
" 270 . . . . R. 1893, 417, § 345.
" 271 . . . . R. L. 168, § 30.
" 272 . . . . S. 1893, 200, § 4.
" 273 . . . . Special, except
" 273, § 2 . . R. L. 160, § 67.
" 274 . . . . T. See 1892, 177.
" 275 . . . . R. 1895, 311, § 3.
" 277 . . . . R. 1892, 351, § 48.
" 278 . . . . R. 1893, 417, § 345.
" 280 . . . . T. and special.
" 281 . . . . R. 1897, 439, § 14.
" 286 . . . . R. 1892, 351, § 48.
" 287, § 1 . . R. L. 156, § 16.
" 287, § 2 . . R. L. 157, § 24.
" 288 . . . . R. L. 13, § 59.
" 289 . . . . S. 1894, 522, § 38.
" 290 . . . . R. 1892, 351, § 48.
" 291 . . . . S. 1894, 522, § 60.
" 292 . . . . R. 1894, 393, § 15.
" 293 . . . . R. L. 25, § 55; 112, § 100; S. in part, 1894, 481, § 4; 1898, 490.
" 295 . . . . R. L. 208, § 119.
" 299 . . . . R. L. 85, § 2; S. in part, 1900, 333.
" 300 . . . . R. L. 89, § 4; S. in part, 1893, 130.
" 302 . . . . R. 1894, 481, § 63.
" 304 . . . . R. L. 212, § 76.
" 305 . . . . R. 1893, 417, § 345.
" 307 . . . . T.
" 309 . . . . R. 1898, 278.
" 310 . . . . R. L. 6, § 61.
" 313 . . . . R. L. 168, §§ 74, 78.
" 314 . . . . R. 1893, 417, § 345.
" 315, § 1 . . R. L. 196, § 45.
" 315, § 2 . . Acted on.
" 317 . . . . R. 1894, 508, § 80.
" 318 . . . . R. 1893, 469, § 4.
" 319 . . . . R. L. 75, § 6.
" 321 . . . . R. L. 27, § 11.
" 325, § 1 . . R. L. 204, §§ 42, 43; 219, §§ 26, 30.
" 325, § 2 . . R. L. 204, § 5.
" 327 . . . . R. L. 91, § 125.
" 328 . . . . R. 1893, 417, § 345.
" 329 . . . . R. 1893, 417, § 345.
" 333 . . . . R. L. 213, § 4.
" 336 . . . . R. 1893, 417, § 345.
" 339 . . . . R. L. 149, § 4.
" 340 . . . . R. 1897, 439, § 14.
" 341 . . . . R. L. 126, §§ 12–14, 20, except
" 341, § 2 . . R. 1894, 541, § 2.
" 342 . . . . S. 1901, 449.
" 343 . . . . R. L. 81, § 36.
" 349 . . . . R. L. 210, §§ 6, 7.
" 350 . . . . R. 1894, 508, § 80.
" 351 . . . . R. 1895, 463, § 3.
" 354 . . . . R. L. 127, § 6.
" 355 . . . . R. L. 26, § 37.
" 356, § 1 . . S. 1892, 242.
" 356, §§ 2–4 . R. L. 217, §§ 83, 84.
" 356, § 5 . . R. L. 217, § 91; S. in part, 1900, 449, § 3.
" 356, § 6 . . R. L. 217, § 92.
" 356, § 7 . . R. L. 225, § 121; S. in part, 1898, 511.
" 356, §§ 8, 9 . R. L. 217, §§ 95, 97.

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" 357, § 6 . . R. L. 108, § 1.
" 358 . . . . R. L. 145, § 28.
" 360, § 1 . . S. 1892, 198.
" 360, §§ 2–4, 6, R. L. 109, §§ 9–11.
" 360, § 5 . . R. L. 5, § 11.
" 361 . . . . R. 1894, 498, § 30.
" 362 . . . . R. L. 173, § 109; R. in part, 1895, 469, § 4.
" 366 . . . . Acted on.
" 367 . . . . R. L. 82, §§ 5, 6.
" 368 . . . . R. 1894, 137, § 3.
" 369 . . . . R. L. 100, § 17.
" 370 . . . . R. L. 34, except
" 370, §§ 2, 12, S. 1893, 454, §§ 5, 7.
" 370, § 4 . . R. L. 27, § 5; 34, § 7.
" 371 . . . . S. 1897, 412, § 1.
" 372 . . . . R. 1892, 267, § 2.
" 374, §§ 1, 3 . R. L. 213, §§ 6, 7.
" 374, § 2 . . T.
" 375, §§ 1, 2 . S. 1900, 217.
" 375, § 3 . . R. L. 6, § 14.
" 379, § 1 . . R. L. 157, § 7.
" 379, § 2 . . S. 1894, 204.
" 379, §§ 3–9 . R. L. 157, §§ 9–15.
" 379, § 10 . . S. 1893, 324.
" 379, § 11 . . R. L. 218, § 54.
" 379, § 12 . . R. L. 219, § 11.
" 379, §§ 13–16, Acted on or T.
" 381 . . . . R. L. 12, § 43.
" 382, §§ 1–4 . R. L. 73, §§ 7, 8.
" 383 . . . . R. L. 159, § 3, cl. 4.
" 384 . . . . R. L. 39, § 10.
" 392 . . . . R. L. 160, §§ 48, 54.
" 395 . . . . R. 1893, 417, § 345.
" 396 . . . . S. 1896, 519; 1901, 511.
" 400 . . . . R. L. 163, §§ 80, 81.
" 402 . . . . R. L. 45. In part redundant.
" 403 . . . . R. L. 114, § 29.
" 405 . . . . T.
" 406 . . . . S. 1898, 479, § 1.
" 407 . . . . R. L. 168, § 17.
" 410 . . . . S. 1900, 383.
" 411 . . . . R. L. 4, §§ 5, 6.
" 412, §§ 1, 2 . S. 1894, 280, §§ 2, 3.
" 412, § 3 . . R. L. 56, § 45.
" 412, § 4 . . S. 1894, 280, § 4.
" 412, § 5 . . S. 1896, 377, § 2.
" 412, § 6 . . R. 1900, 368, § 2.
" 412, § 7 . . R. L. 89, § 11; S. in part, 1892, 139.
" 412, § 8 . . R. L. 89, § 12; S. in part, 1895, 214.
" 412, § 9 . . S. 1894, 280, § 5.
" 412, §§ 10, 11, R. L. 89, §§ 12, 11.
" 412, § 12 . . R. L. 56, § 50; 89, § 13.
" 414 . . . . R. L. 136, § 1.
" 415, § 1 . . R. L. 162, § 5; S. in part, 1892, 116.
" 415, § 2 . . R. L. 162, § 33.
" 415, § 3 . . R. L. 162, § 17.
" 415, § 4 . . R. L. 162, § 2.
" 416 . . . . R. L. 221, §§ 2, 14, 15.
" 418 . . . . R. L. 165, § 45.
" 419 . . . . R. L. 166, § 14.
" 420 . . . . R. L. 75, § 48.
" 423 . . . . Special.
" 425, § 1 . . S. 1901, 297.
" 425, §§ 2, 3 . R. L. 15, §§ 2, 3.
" 425, § 4 . . S. 1895, 430, § 1.
" 425, § 5 . . S. 1901, 277.
" 425, §§ 6–8 . R. L. 15, §§ 6–8.
" 425, § 9 . . S. 1895, 430, § 2.

1891, c. 425, §§ 10, 11, 13–16 . . R. L. 15, §§ 10, 11, 16–19.
" 425, § 12 . . S. 1892, 379.
" 425, § 17 . . Superfluous. See R. L. 8, §§ 4, 5, cl. 16.
" 425, § 18 . . R. L. 15, § 20.
" 426 . . . . R. 1894, 498, § 30.
" 427, § 1 . . R. L. 212, § 36.
" 427, §§ 2, 3 . R. 1893, 414, § 2.
" 427, § 4 . . R. L. 212, § 38.
" 427, § 5 . . S. 1892, 303.
" 427, §§ 6, 7 . R. L. 212, §§ 40, 41.
" 429 . . . . R. L. 4, § 6.
1892, c. 16 . . . . S. 1897, 188.
" 40 . . . . S. 1894, 367, § 10.
" 47 . . . . R. 1894, 137, § 3.
" 50 . . . . R. L. 102, § 141.
" 51 . . . . R. 1893, 417, § 345.
" 53 . . . . R. 1898, 438, § 2.
" 55 . . . . R. L. 196, § 39.
" 58 . . . . R. L. 160, § 67.
" 59, §§ 1–3 . R. L. 111, § 234.
" 59, § 4 . . R. L. 3, § 8.
" 62 . . . . R. 1894, 498, § 30.
" 63 . . . . R. L. 57, §§ 55–59.
" 67 . . . . R. L. 58, § 14.
" 74 . . . . R. L. 91, § 101.
" 83 . . . . R. 1894, 508, § 80.
" 87 . . . . R. L. 165, § 6; S. in part, 1893, 153.
" 93 . . . . R. L. 160. § 67.
" 95 . . . . R. L. 165, § 34.
" 96 . . . . S. 1895, 90.
" 100 . . . . R. L. 160, § 67.
" 101 . . . . R. L. 4, § 1.
" 102, § 1 . . Acted on.
" 102, § 2 . . R. L. 92, § 11.
" 104 . . . . R. 1900, 385, § 3.
" 105 . . . . Acted on.
" 107, §§ 1, 3, 5, S. 1895, 246.
" 107, §§ 2, 4 . R. L. 165, § 74.
" 109 . . . . R. L. 13, §§ 54, 57.
" 110 . . . . R. L. 111, §§ 1, 198.
" 115 . . . . R. 1893, 417, § 345.
" 116 . . . . R. L. 162, § 5.
" 118 . . . . R. L. 135, § 9.
" 121 . . . . R. L. 22, § 13; S. in part, 1900, 327.
" 123 . . . . R. L. 210, § 1.
" 124 . . . . R. 1893, 417, § 345.
" 127 . . . . R. L. 156, § 17.
" 128 . . . . R. L. 108, § 5.
" 129 . . . . R. L. 14, §§ 31–34, 55.
" 133 . . . . R. L. 165, § 85.
" 138 . . . . R. L. 208, § 47.
" 139 . . . . R. L. 89, § 11.
" 140 . . . . R. L. 10, § 27.
" 143 . . . . S. 1898, 459.
" 144 . . . . R. L. 21, § 3.
" 147 . . . . R. L. 53, § 10.
" 148 . . . . R. L. 167, §§ 22, 23; S. in part, 1893, 396, § 17.
" 152 . . . . R. L. 24, § 20.
" 159 . . . . S. 1895, 373.
" 160 . . . . R. L. 161, § 43.
" 165 . . . . R. L. 78, §§ 26, 27.
" 166 . . . . R. L. 25, § 18.
" 167 . . . . R. L. 214, § 31.
" 168 . . . . R. 1899, 425, § 3.
" 169 . . . . Acted on.
" 171 . . . . R. L. 111, § 144.
" 177 . . . . R. L. 32, §§ 71–76, except
" 177, § 3 . . S. 1894, 375.
" 178 . . . . R. L. 27, § 7.

1892, c. 180 . . . . R. L. 124, § 16.
" 184 . . . . R. 1896, 279, § 3.
" 187 . . . . R. L. 165, § 35.
" 190 . . . . R. 1893, 417, § 345.
" 191 . . . . R. L. 197, § 6.
" 192 . . . . R. L. 112, § 23.
" 195 . . . . R. 1893, 306, § 8; 1894, 491, § 59.
" 198 . . . . R. L. 109, § 9.
" 200 . . . . R. L. 204, §§ 5, 20.
" 201 . . . . S. 1895, 104.
" 202 . . . . R. L. 162, § 60.
" 206 . . . . R. L. 96, § 11.
" 209 . . . . R. L. 177, § 24.
" 210 . . . . R. 1894, 508, § 80.
" 224 . . . . R. 1893, 417, § 345.
" 228 . . . . R. L. 111, § 27.
" 229 . . . . R. 1895, 286, § 3.
" 230 . . . . R. L. 164, § 29.
" 231 . . . . R. L. 203, § 9.
" 233 . . . . R. L. 7, § 13.
" 234 . . . . R. L. 91, § 139.
" 238 . . . . S. 1893, 367, § 11.
" 242 . . . . R. L. 217, § 81.
" 243 . . . . S. 1895, 375.
" 245, § 1 . . R. L. 49, §§ 6, 22.
" 245, §§ 2–5 . R. L. 49, §§ 8–12.
" 245, § 6 . . R. L. 27, § 11.
" 245, § 7 . . R. L. 27, § 18.
" 245, § 8 . . S. 1895, 127.
" 245, § 9 . . R. L. 27, § 22; 49, § 27.
" 248 . . . . R. 1894, 317, § 53.
" 249 . . . . R. L. 108, § 3.
" 252 . . . . R. L. 91, § 64.
" 253 . . . . R. L. 22, § 21.
" 254 . . . . R. L. 112, § 95.
" 255 . . . . S. 1900, 233.
" 256 . . . . R. L. 127, § 5.
" 259 . . . . R. L. 34, §§ 4–6, 23, 29.
" 260, § 1 . . S. 1893, 359.
" 260, § 2 . . S. 1900, 446.
" 262, § 1 . . R. L. 5, §§ 1, 2.
" 262, § 2 . . R. L. 5, § 10; S. in part, 1894, 393, § 7.
" 263 . . . . R. L. 121, § 32.
" 266 . . . . R. L. 193, § 13.
" 267 . . . . R. L. 225, § 15.
" 268 . . . . R. L. 160, § 41.
" 270 . . . . R. L. 25, § 57.
" 271 . . . . S. 1896, 526.
" 274 . . . . S. 1901, 389.
" 275 . . . . R. L. 111, § 148.
" 276 . . . . R. 1897, 266, § 4.
" 279 . . . . R. 1893, 417, § 345.
" 280 . . . . R. 1899, 462, § 4.
" 286 . . . . R. L. 24, § 7.
" 287 . . . . R. 1893, 86, § 4.
" 289 . . . . R. L. 134, § 14.
" 290 . . . . R. L. 108, § 38; 222, § 7; S. in part, 1901, 364.
" 291 . . . . S. 1894, 279, § 9.
" 295 . . . . S. 1898, 330.
" 296 . . . . R. 1894, 508, § 80.
" 298 . . . . R. L. 20, § 14.
" 300 . . . . R. L. 151, § 32.
" 302 . . . . R. L. 220, § 29.
" 303 . . . . S. 1893, 447.
" 305 . . . . R. 1897, 444, § 31.
" 312 . . . . R. L. 111, § 152.
" 313, §§ 1, 3 . T.
" 313, § 2 . . R. L. 225, § 23.
" 316 . . . . R. 1893, 417, § 345.
" 318, §§ 1–15 . R. L. 83, §§ 1–13; S. in part, 1897, 395, § 3; 1898, 433, § 24.

1892, c. 318, § 16 . . Acted on.
" 319 . . . . R. L. 7, § 13.
" 327 . . . . R. L. 116, § 31.
" 328 . . . . R. 1900, 385, § 3.
" 330 . . . . S. & R. 1894, 437; 508, § 80.
" 331 . . . . R. L. 65, § 17.
" 332 . . . . R. 1893, 417, § 345.
" 333 . . . . R. L. 35, §§ 1–4, except
" 333, § 3 . . S. 1898, 67.
" 337 . . . . R. 1894, 377, § 4.
" 338 . . . . T.
" 348 . . . . R. L. 166, § 14.
" 351 . . . . R. 1893, 417, § 345.
" 352 . . . . R. 1894, 508, § 80.
" 354 . . . . R. L. 20, § 14.
" 357 . . . . R. 1894, 508, § 80.
" 359 . . . . R. L. 163, § 174.
" 361 . . . . R. L. 217, § 48.
" 366 . . . . S. 1893, 367.
" 368 . . . . R. 1893, 417, § 345.
" 370 . . . . R. L. 13, §§ 7–11, except
" 370, § 2 . . T.
" 372 . . . . S. 1893, 434.
" 377 . . . . Unconstitutional. See 160 Mass. 102.
" 378 . . . . R. L. 108, §§ 29, 30.
" 379 . . . . R. L. 15, § 15.
" 380 . . . . R. L. 165, § 67.
" 382 . . . . R. L. 106, § 5.
" 388 . . . . R. L. 214, §§ 25, 26.
" 389 . . . . Unconstitutional. See 160 Mass. 62.
" 390 . . . . R. L. 52, § 6.
" 391 . . . . S. 1901, 162.
" 399 . . . . R. L. 20, § 14.
" 403 . . . . R. 1893, 183, § 2.
" 405 . . . . R. 1893, 417, § 345.
" 406 . . . . R. 1893, 417, § 345.
" 407 . . . . R. L. 87, § 124.
" 408 . . . . R. L. 161, § 9.
" 409 . . . . S. 1895, 419, §§ 7, 8.
" 410 . . . . R. 1894, 508, § 80.
" 411 . . . . S. 1898, 545.
" 413 . . . . R. L. 108, §§ 11, 12.
" 415 . . . . R. L. 48, §§ 28, 80, 90, 94.
" 416 . . . . R. 1893, 417, § 345.
" 422 . . . . R. L. 9, § 15.
" 423 . . . . R. L. 225, § 14.
" 425 . . . . R. L. 87, §§ 16, 20, 23, 26, 27, 29, 55, 75; T. in part; S. in part, 1896, 482; 1898, 433, § 28.
" 428 . . . . R. L. 102, §§ 51–56.
" 430 . . . . R. L. 21, § 43.
" 431 . . . . R. 1893, 417, § 345.
" 432 . . . . R. 1894, 491, § 59.
" 435 . . . . S. 1898, 474, § 19.
" 440 . . . . R. L. 159, § 11.
1893, c. 23 . . . . R. L. 27, § 6.
" 39 . . . . R. 1893, 417, § 345.
" 41 . . . . R. 1895, 434, § 5.
" 47 . . . . S. 1894, 367, § 9.
" 54 . . . . S. 1894, 522, § 51.
" 59 . . . . R. L. 91, § 65.
" 60 . . . . R. 1893, 423, § 1.
" 61 . . . . R. L. 159, § 23.
" 62 . . . . T.
" 65 . . . . R. L. 48, § 72.
" 70 . . . . S. 1894, 393, § 7.
" 75 . . . . R. L. 28, § 11.
" 78 . . . . S. 1899, 330, § 4.
" 79 . . . . R. L. 75, § 135.
" 80 . . . . R. L. 91, § 69.
" 82 . . . . R. L. 48, § 92.
" 86, §§ 1, 2 . R. L. 10, §§ 24, 26.

1893, c. 86, § 3 . . T.
" 87 . . . . R. 1893, 417, § 345.
" 95 . . . . S. 1896, 502.
" 99 . . . . R. L. 196, §§ 45, 46.
" 100 . . . . T.
" 103 . . . . S. 1897, 351.
" 105 . . . . R. L. 91, §§ 4, 127.
" 106 . . . . R. L. 75, § 108; S. in part, 1897, 428, § 2.
" 108 . . . . R. 1894, 393, § 15.
" 111 . . . . R. 1894, 481, § 63.
" 112 . . . . S. 1895, 402.
" 114, § 1 . . R. L. 116, § 4.
" 114, § 2 . . T.
" 117 . . . . S. 1894, 522, § 61.
" 118 . . . . R. L. 139, § 8; 145, § 42; 147, § 14; 163, § 53.
" 124 . . . . R. L. 45, § 5.
" 130 . . . . S. 1901, 335.
" 131 . . . . R. L. 111, § 85.
" 138 . . . . R. L. 7, § 13.
" 142 . . . . R. L. 111, § 181.
" 144 . . . . R. L. 18, § 6.
" 146 . . . . R. 1893, 417, § 345.
" 148 . . . . S. 1896, 443, § 6.
" 149 . . . . S. 1898, 353.
" 151 . . . . R. L. 164, §§ 17, 27, 28.
" 153 . . . . R. L. 165, § 35.
" 156 . . . . R. L. 21, § 3.
" 173 . . . . R. L. 198, § 25.
" 174 . . . . R. 1894, 317, § 53.
" 177 . . . . R. 1893, 417, § 345.
" 183 . . . . S. 1900, 230.
" 186 . . . . S. 1900, 220.
" 189 . . . . R. 1894, 205, § 2.
" 190 . . . . R. L. 165, § 35.
" 191 . . . . T.
" 193 . . . . S. 1893, 367, § 13.
" 194 . . . . S. 1893, 280.
" 197 . . . . R. L. 81, §§ 5, 6.
" 199 . . . . R. 1894, 481, § 63.
" 200, §§ 1–3 . S. 1898, 466, §§ 1–3.
" 200, § 4 . . S. 1894, 58.
" 201 . . . . R. 1897, 110, § 2.
" 205 . . . . R. L. 91, §§ 116, 121. T. in part.
" 208, § 1 . . S. 1900, 166.
" 208, § 2 . . R. L. 42, § 14.
" 209 . . . . R. 1893, 417, § 345.
" 210 . . . . R. L. 111, §§ 246–248.
" 217 . . . . R. L. 83, § 20; S. in part, 1898, 433, § 24.
" 223 . . . . S. 1894, 393, § 7.
" 224 . . . . R. L. 6, § 66.
" 225, §§ 1, 2 . R. L. 28, §§ 19, 20.
" 225, § 3 . . R. L. 27, § 11; 28, § 21.
" 226, § 1 . . R. L. 125, § 4.
" 226, § 2 . . R. 1894, 542, § 2.
" 227 . . . . R. 1896, 397, § 24.
" 230 . . . . R. 1894, 317, § 53.
" 231 . . . . S. 1893, 367, § 13.
" 237 . . . . R. 1898, 356, § 2.
" 238 . . . . R. L. 20, § 21.
" 241 . . . . S. 1901, 408.
" 246 . . . . R. 1894, 508, § 80.
" 247 . . . . S. 1893, 445.
" 252 . . . . S. 1900, 397.
" 253 . . . . R. L. 19, § 10.
" 254 . . . . R. 1894, 317, § 53.
" 256 . . . . R. L. 87, § 26.
" 257 . . . . R. L. 18, § 18.
" 262 . . . . R. L. 212, § 45.
" 263 . . . . R. 1897, 437, § 8; 444, § 31.
" 266 . . . . R. L. 25, § 19.

1893, c. 270 . . . . R. L. 21, §§ 42, 48.
" 271 . . . . R. L. 210, §§ 8, 10.
" 272 . . . . R. L. 41, § 4.
" 273 . . . . R. L. 20, § 14.
" 274 . . . . R. L. 122, § 6.
" 275 . . . . R. L. 20, § 15.
" 276 . . . . R. L. 20, § 14.
" 279 . . . . R. L. 79, § 18; S. in part, 1897, 441.
" 280 . . . . R. L. 152, § 18.
" 283 . . . . S. 1894, 545.
" 285 . . . . R. L. 189, § 3.
" 287 . . . . R. 1896, 248, § 2.
" 288 . . . . R. L. 20, § 14.
" 291 . . . . R. L. 20, § 14.
" 292 . . . . O.
" 298 . . . . S. 1898, 572.
" 300 . . . . R. L. 28, §§ 3–6, except
" 300, § 6 . . R. 1893, 416.
" 302 . . . . R. L. 75, §§ 52, 53.
" 303 . . . . R. 1895, 311, § 3.
" 304 . . . . R. 1893, 417, § 345.
" 306 . . . . R. 1894, 491, § 59.
" 307 . . . . R. 1893, 417, § 345.
" 308 . . . . R. 1893, 417, § 345.
" 311 . . . . T.
" 312 . . . . R. L. 49, § 35.
" 315 . . . . R. 1894, 472, § 3.
" 321 . . . . S. 1894, 367, §§ 10, 17.
" 324 . . . . R. L. 7, § 4.
" 327 . . . . T.
" 331 . . . . R. L. 28, § 22.
" 333 . . . . R. L. 223, §§ 21, 27.
" 340 . . . . R. L. 182, §§ 1–5.
" 343 . . . . R. L. 162, § 60.
" 344 . . . . R. L. 164, § 29.
" 345 . . . . R. L. 7, § 17.
" 348 . . . . R. L. 162, § 60.
" 349 . . . . R. 1893, 417, § 345.
" 350 . . . . R. L. 160, § 2.
" 351 . . . . R. 1893, 417, § 345.
" 352 . . . . R. L. 12, §§ 10–12.
" 353 . . . . R. 1895, 389, § 5.
" 355 . . . . R. L. 208, §§ 75, 76.
" 358 . . . . R. L. 10, § 10.
" 359 . . . . S. 1894, 499.
" 365 . . . . R. L. 157, § 10.
" 367 . . . . R. L. 16, except
" 367, §§ 11, 63, 64, 69, 70, 80, 129, 136, S. 1897, 448, §§ 1, 7, 8, 10–14.
" 367, § 13 . . R. L. 16, § 14; S. in part, 1895, 465, § 2.
" 367, § 23 . . S. 1897, 391.
" 367, § 25 . . R. L. 16, §§ 26, 31; S. in part, 1894, 236; 1900, 188, § 3.
" 367, § 26 . . S. 1900, 188, § 1.
" 367, § 29 . . S. 1896, 182.
" 367, § 33 . . R. L. 16, § 35; S. in part, 1895, 465, § 3; 1897, 448, § 3.
" 367, § 53 . . R. 1899, 381, § 12.
" 367, § 55 . . R. L. 16, §§ 65, 66; R. in part, 1900, 188, § 6.
" 367, § 65 . . S. 1896, 425.
" 367, § 107 . S. 1898, 348, § 1.
" 367, §§ 124, 125 . . . S. 1895, 465, §§ 6, 7.
" 367, § 127 . R. L. 16, §§ 136, 150; R. & S. in part, 1896, 348, § 2; 1898, 348, § 3.
" 367, § 128 . R. L. 16, § 151; S. in part, 1895, 465, § 8; 1898, 183.
" 367, § 133 . S. 1893, 439.
" 367, § 160 . T.

1893, c. 370 . . . . R. 1897, 260, § 3.
" 371 . . . . R. L. 160, § 67.
" 372 . . . . R. L. 162, § 29; 163, § 16. T. in part.
" 376 . . . . R. 1893, 417, § 345.
" 379 . . . . R. L. 164, § 2.
" 380 . . . . S. 1897, 274.
" 385 . . . . R. L. 204, § 24.
" 386 . . . . R. 1894, 508, § 80.
" 387 . . . . R. 1894, 481, § 63.
" 394 . . . . R. L. 157, §§ 16, 17.
" 395 . . . . T.
" 396, § 1 . . S. 1897, 245.
" 396, § 2 . . R. L. 160, § 6.
" 396, §§ 3–7 . R. L. 160, §§ 9–13, 15.
" 396, § 8 . . R. L. 160, §§ 10, 13, 14; S. in part, 1900, 281.
" 396, § 9 . . R. L. 160, § 48.
" 396, §§ 10–12, R. L. 160, §§ 16–19; 197, § 10.
" 396, §§ 13, 17, S. 1894, 398.
" 396, §§ 14–16, R. L. 160, §§ 21–23.
" 396, § 18 . . R. L. 170, § 9.
" 396, § 19 . . R. L. 173, §§ 11, 54.
" 396, § 20 . . R. L. 173, § 72.
" 396, § 21 . . Acted on.
" 396, § 22 . . R. L. 167, § 25.
" 396, § 23 . . R. L. 173, §§ 20, 125, 126, 128.
" 396, §§ 24–29, R. L. 173, §§ 97, 98, 100, 101.
" 396, §§ 30, 31, R. L. 157, § 22; 173, §§ 102, 104.
" 396, § 32 . . R. L. 173, § 23.
" 396, § 33 . . R. L. 193, §§ 14, 15, 16; R. in part, 1895, 234, § 27.
" 396, § 34 . . R. L. 160, § 24; 218, § 46.
" 396, §§ 35–38, R. L. 160, §§ 25–28.
" 396, § 39 . . R. 1897, 180.
" 396, §§ 40–42, R. L. 160, §§ 31–34.
" 396, § 43 . . R. L. 160, § 35; 166, § 2.
" 396, §§ 44–46, R. L. 160, §§ 36–38.
" 396, §§ 47–53, R. L. 219, §§ 22–24, 27–30.
" 396, §§ 54–56, R. L. 160, §§ 39, 41, 43.
" 396, § 57 . . R. L. 166, § 1.
" 396, § 58 . . R. L. 160, § 6.
" 396, § 59 . . R. L. 160, § 45.
" 396, §§ 60. 61, R. L. 160, §§ 7, 8.
" 396, § 62 . . R. L. 160, § 62.
" 396, §§ 63–65, R. L. 160, §§ 44, 46, 47.
" 396, §§ 66, 67, R. L. 160, §§ 69, 70.
" 396, §§ 68, 69, T. and acted on.
" 397 . . . . R. L. 110, § 9.
" 398 . . . . R. 1894, 205, § 2.
" 401 . . . . S. 1899, 417.
" 403 . . . . R. L. 208, § 104; S. in part, 1899, 330, § 5.
" 404 . . . . R. L. 165, §§ 80, 88.
" 405, § 1 . . R. L. 163, § 20.
" 405, § 2 . . S. 1894, 261; R. 1895, 209, § 2.
" 405, § 3 . . R. L. 163, § 133.
" 405, § 4 . . R. 1894, 30, § 2.
" 405, § 5 . . R. L. 163, § 4.
" 406 . . . . R. 1894, 508, § 80.
" 409 . . . . R. L. 10, § 10.
" 411 . . . . R. L. 10, § 21.
" 413 . . . . Special and T.
" 414 . . . . R. L. 212, § 37.
" 416 . . . . Acted on.
" 417 . . . . R. 1898, 548, § 418.
" 418 . . . . T.
" 419, § 1 . . S. 1894, 181.
" 419, §§ 2, 3 . R. L. 102, §§ 15, 16.
" 422 . . . . R. L. 162, § 54.
" 423 . . . . R. L. 25, §§ 59–98, except
" 423, § 1 . . Acted on.
1893, c. 423, § 5 . . R. L. 111, § 54.
" 423, § 25 . . S. 1894, 17.
" 423, § 26 . . R. L. 25, § 86; S. in part, 1899, 330, § 1.
" 423, § 41 . . T. Provisions as to fines, etc., omitted with P. S. 27, § 130.
" 424 . . . . R. L. 111, § 158; special in part.
" 426 . . . . R. L. 223, §§ 9, 10.
" 428 . . . . R. L. 222, § 8.
" 431 . . . . R. L. 164, § 29.
" 432 . . . . R. L. 6, § 5; S. in part, 1895, 276.
" 434 . . . . S. 1894, 522, § 73.
" 436 . . . . R. 1895, 461, § 2.
" 438 . . . . R. 1894, 393, § 15.
" 439 . . . . R. L. 16, § 155.
" 440 . . . . R. L. 72, §§ 15–18.
" 443 . . . . R. & S. 1894, 285; 1895, 462, § 7.
" 445 . . . . R. L. 12, §§ 54, 55.
" 447 . . . . R. L. 212, § 39.
" 452 . . . . S. 1894, 68.
" 453 . . . . R. L. 222, § 1.
" 454 . . . . R. L. 34, except
" 454, § 5 . . S. in part, 1894, 538.
" 454, § 6 . . Redundant.
" 454, §§ 7, 9 . S. 1894, 432; 182.
" 455 . . . . S. 1894, 370.
" 456 . . . . S. 1894, 477, § 2.
" 457 . . . . R. 1897, 306, § 2.
" 460, § 1 . . S. 1899, 143.
" 460, § 2 . . R. L. 75, § 141.
" 461 . . . . R. L. 151, §§ 30, 34.
" 462 . . . . R. L. 48, § 103.
" 465 . . . . R. 1898, 378, § 6; 548, § 418.
" 466 . . . . R. L. 207, §§ 22, 23.
" 469, § 1 . . R. L. 164, § 27; S. in part, 1894, 352; 1898, 280; 1900, 328, 347, 408.
" 469, § 2 . . R. L. 164, § 15; 204, §§ 30, 33–37.
" 469, § 3 . . R. L. 164, § 16.
" 470 . . . . R. L. 96, §§ 4–6; 202, § 30.
" 472 . . . . R. 1896, 397, § 24.
" 476, § 1 . . S. & R. 1898, 528; 1900, 474, § 2.
" 476, §§ 2–4 . R. L. 47, §§ 1–4.
" 476, § 5 . . R. L. 47, § 3. In part redundant.
" 476, §§ 6–9, 11, 13 . . R. 1894, 497, § 9.
" 476, §§ 10, 12, 14 . . . R. L. 47, §§ 14, 15, 20, 21.
" 476, § 15 . . Superfluous.
" 477 . . . . S. 1894, 455.
" 479 . . . . In part, R. L. 160, § 67.
1894, c. 16 . . . . S. 1898, 548, § 331.
" 17 . . . . R. L. 25, § 85.
" 19 . . . . S. 1894, 522, § 15.
" 27 . . . . R. L. 208, § 60.
" 30 . . . . R. L. 163, § 137.
" 41 . . . . R. L. 111, § 183.
" 58 . . . . S. 1898, 466, § 4.
" 59 . . . . Acted on.
" 60 . . . . S. 1894, 367, § 9.
" 62 . . . . R. 1896, 279, § 3.
" 65 . . . . Mostly special. S. in part, 1897, 422.
" 66 . . . . R. L. 164, § 33.
" 67 . . . . T.
" 68 . . . . R. L. 165, § 88.
" 83, §§ 1, 3 . R. L. 60, § 7.

1894, c. 83, § 2 . . R. L. 57, § 76.
" 97 . . . . S. 1901, 102.
" 101 . . . . Special and mostly T.
" 102 . . . . T.
" 103 . . . . S. 1894, 522, § 22.
" 104 . . . . R. L. 184, § 47.
" 105 . . . . R. L. 52, §§ 16, 17.
" 111 . . . . Acted on.
" 113 . . . . R. L. 91, § 60.
" 117 . . . . R. L. 208, § 60.
" 118 . . . . Acted on.
" 120 . . . . S. 1894, 522, § 73.
" 126 . . . . R. L. 36, § 8.
" 127 . . . . R. L. 7, § 1.
" 128 . . . . R. L. 146, § 29.
" 129 . . . . R. L. 100, § 35.
" 130, §§ 1–3 . Acted on.
" 130, §§ 4, 5 . S. 1896, 162.
" 132 . . . . R. 1898, 548, § 418.
" 133 . . . . S. 1894, 522, §§ 29, 31, 80.
" 136 . . . . R. L. 165, § 33.
" 137 . . . . S. 1894, 522, §§ 20, 56.
" 139 . . . . R. L. 163, § 132.
" 142 . . . . R. L. 160, § 71.
" 143 . . . . Special.
" 144 . . . . R. L. 89, § 1.
" 145 . . . . R. L. 25, § 45; S. in part, 1897, 299, §§ 1, 2; 1899, 379, §§ 1, 2.
" 146 . . . . R. L. 27, § 15.
" 147 . . . . S. 1894, 522, § 83.
" 151 . . . . R. L. 42, § 21.
" 153 . . . . R. L. 23, § 18.
" 160 . . . . R. L. 217, § 53.
" 164 . . . . R. L. 163, §§ 2, 5, 6, 17.
" 169 . . . . S. 1901, 70.
" 170 . . . . S. 1900, 450, by repeal of P. S. 124, §§ 1, 3.
" 173, § 1 . . R. 1896, 220.
" 173, § 2 . . R. L. 160, § 69.
" 174 . . . . S. 1895, 332.
" 175 . . . . R. L. 48, § 109.
" 176 . . . . R. L. 39, § 3.
" 180 . . . . R. L. 102, §§ 25–28.
" 181 . . . . R. L. 102, § 14.
" 182 . . . . R. L. 27, § 11; 34, § 8.
" 183 . . . . R. L. 21, § 48.
" 184 . . . . R. 1895, 308.
" 188 . . . . R. 1894, 498, § 30.
" 189, §§ 1–4 . R. L. 91, §§ 74–78.
" 189, § 5 . . Redundant.
" 195 . . . . R. L. 87, § 34; S. in part, 1898, 433.
" 196 . . . . S. 1898, 433, §§ 11, 12.
" 198, §§ 1, 2, 5, R. L. 62, §§ 1–3.
" 198, §§ 3, 4 . R. 1901, 103.
" 198, § 6 . . S. 1895, 28.
" 199 . . . . R. L. 164, § 14.
" 200 . . . . R. 1898, 548, § 418.
" 203 . . . . R. L. 144, § 1.
" 204 . . . . R. L. 156, § 18; 157, § 8; 219, § 35.
" 205 . . . . R. 1900, 379, § 6.
" 206 . . . . R. 1897, 444, § 31.
" 207 . . . . R. L. 12, § 82.
" 209 . . . . S. & R. 1894, 508, §§ 5, 58; 1898, 548, § 418.
" 211 . . . . R. L. 16, §§ 107, 109, 110.
" 214, § 1 . . R. L. 225, §§ 95, 104.
" 214, § 2 . . R. L. 225, §§ 105, 106.
" 214, § 3 . . R. L. 225, §§ 108, 111.
" 216 . . . . R. L. 111, §§ 149, 151–153.
" 218, §§ 1–3 . R. 1894, 473, § 2; 1898. 548, § 418.
" 218, § 4 . . Acted on.

1894, c. 220 . . . . R. L. 12, § 5, cl. 12.
" 221 . . . . R. L. 27, § 11.
" 224 . . . . T.
" 225 . . . . S. 1894, 522, § 73.
" 228 . . . . R. L. 165, § 11.
" 229 . . . . S. 1900, 279.
" 230 . . . . O. See Res. 1899, c. 58.
" 231 . . . . R. 1898, 496, § 36.
" 235 . . . . R. L. 102, § 2; S. in part, 1894, 428, § 4.
" 236 . . . . R. L. 16, §§ 23, 26, 31.
" 238 . . . . T.
" 245 . . . . R. L. 6, § 35.
" 248 . . . . R. 1895. 242, § 6.
" 249, § 1 . . S. 1901, 340.
" 249, § 2 . . R. L. 225, §§ 104, 117.
" 250 . . . . R. L. 20, § 14.
" 251 . . . . R. L. 85, § 43; S. in part, 1895, 390, § 6.
" 253 . . . . R. L. 127, §§ 9, 18–22.
" 258 . . . . R. L. 225, §§ 113, 128; S. in part, 1898, 443, § 1.
" 259 . . . . R. L. 164, § 29.
" 260 . . . . R. L. 225, § 70.
" 261 . . . . R. 1895, 209, § 2.
" 267 . . . . R. L. 19, § 36.
" 268 . . . . R. 1898, 548, § 418.
" 270 . . . . R. L. 217, § 51; S. in part, 1901, 364.
" 271 . . . . R. 1895, 61, § 5; 1898, 548, § 418.
" 273 . . . . R. L. 217, § 52.
" 274 . . . . R. L. 116, § 35.
" 275 . . . . R. 1898, 548, § 418.
" 279 . . . . R. 1899, 372, § 11.
" 280, §§ 1–4 . R. L. 56, §§ 38, 43, 44, 46.
" 280, § 5 . . R. L. 89, § 13.
" 280, § 6 . . S. 1896, 377, § 1.
" 281 . . . . R. L. 108, § 1.
" 283, § 1 . . R. L. 157, § 25.
" 283, § 2 . . R. L. 158, § 3.
" 285 . . . . R. 1895, 462, § 7.
" 291 . . . . R. 1898, 548, § 418.
" 292 . . . . R. L. 208, § 65.
" 294 . . . . R. L. 12, § 42.
" 296 . . . . T.
" 297 . . . . S. 1901, 500.
" 298 . . . . R. L. 3, § 29.
" 299 . . . . R. L. 58, § 17.
" 300 . . . . S. 1894, 522, § 39.
" 301 . . . . R. 1899, 374, § 9.
" 303 . . . . R. L. 150, § 21.
" 304 . . . . R. L. 12, § 23, cl. 2.
" 308 . . . . S. 1899, 313.
" 309, § 1 . . R. L. 102, § 155.
" 309, § 2 . . T.
" 312 . . . . S. 1896, 182.
" 314 . . . . R. L. 6, § 35.
" 315 . . . . R. 1895, 202, § 3.
" 316 . . . . R. L. 58, § 16.
" 317 . . . . R. L. 113, except
" 317, § 2 . . R. L. 113, § 2; S. in part, 1897, 362.
" 317, § 21 . . R. L. 8, § 5, cl. 12; 113, § 26; 118, § 34.
" 317, § 21, cl. 3 a, b . . S. 1898, 184.
" 317, § 26 . . S. 1897, 109.
" 317, § 28 . . S. 1896, 231.
" 317, § 47 . . S. 1896, 193.
" 317, § 48 . . S. 1898, 425, § 6.
" 317, § 54 . . T.
" 318 . . . . R. L. 12, § 61.
" 320, § 1 . . S. 1898, 496, § 1.

1894, c. 320, § 2 . . R. L. 42, § 35.
" 321 . . . . R. L. 160, § 67.
" 322 . . . . R. L. 164, § 29.
" 324 . . . . R. L. 48, § 85.
" 326, §§ 1, 2, 4, R. L. 111, §§ 75, 76.
" 326, § 3 . . T.
" 327 . . . . R. L. 121, §§ 34, 35.
" 328 . . . . S. 1894, 367, § 8.
" 329 . . . . R. L. 39, §§ 13–16, except
" 329, § 4 . . R. L. 42, § 28.
" 330 . . . . R. L. 165, § 88; R. in part, 1901, 329.
" 332 . . . . T.
" 333 . . . . S. 1895, 201.
" 334 . . . . R. L. 107, § 3.
" 336 . . . . R. L. 160, § 67.
" 337 . . . . R. 1894, 481, § 63.
" 341 . . . . R. 1894, 481, § 63.
" 342 . . . . R. L. 114, §§ 14, 15.
" 343 . . . . R. 1896, 383, § 6.
" 349 . . . . R. L. 225, § 10.
" 350 . . . . R. L. 109, §§ 20, 21.
" 352 . . . . R. L. 164, § 27.
" 353 . . . . R. 1895, 434, § 5.
" 354 . . . . R. L. 12, § 74.
" 355 . . . . R. L. 75, § 4.
" 356 . . . . R. 1897, 439, § 14.
" 357 . . . . R. L. 173, § 56.
" 359 . . . . Acted on.
" 363 . . . . R. L. 160, § 67, except so far as special.
" 367 . . . . S. 1898, 474.
" 368 . . . . R. L. 217, § 94.
" 370 . . . . R. L. 223, § 19.
" 372 . . . . R. L. 217, § 82.
" 373 . . . . R. L. 160, § 67.
" 374 . . . . S. 1897, 322.
" 375 . . . . R. L. 32, § 72.
" 376 . . . . R. L. 4, § 11.
" 377 . . . . S. 1899, 345.
" 378 . . . . R. 1899, 354, § 6.
" 379 . . . . R. L. 160, § 67.
" 380 . . . . R. L. 109, §§ 22, 23.
" 381 . . . . R. L. 126, §§ 2, 7.
" 382, § 1 . . R. L. 104, § 36; 108, § 8.
" 382, § 2 . . R. L. 104, § 55; S. in part, 1894, 481, §§ 26, 37, 38, 52.
" 382, § 3 . . S. 1894, 481, §§ 25, 26.
" 383 . . . . R. L. 112, § 74.
" 384 . . . . R. L. 170, § 6.
" 385 . . . . R. 1895, 299, § 8; 1898, 548, § 418.
" 388 . . . . S. 1896, 169.
" 389 . . . . R. L. 51, § 22; 106, § 75.
" 393 . . . . As amended, R. L. 9.
" 394 . . . . R. L. 3, § 13.
" 397 . . . . R. L. 6, § 14; S. in part, 1899, 151.
" 398, § 1 . . R. L. 160, § 20; 167, § 2; 189, § 4.
" 398, § 2 . . R. L. 167, § 27; 177, § 17; 189, § 6.
" 399 . . . . R. L. 102, §§ 114–117.
" 401, § 1 . . R. L. 151, § 19.
" 401, § 2 . . S. 1899, 197.
" 402, § 1 . . R. 1897, 439, § 14.
" 402, § 2 . . R. 1897, 444, § 31.
" 405 . . . . R. L. 173, §§ 10, 11.
" 406, § 1 . . R. L. 217, § 50.
" 406, § 2 . . R. L. 204, § 22.
" 407 . . . . Special.
" 409, § 1 . . R. L. 151, § 17.
" 409, § 2 . . R. L. 151, § 28.
" 409, § 3 . . R. L. 151, § 18.
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" 409, § 5 . . R. L. 151, § 30.
" 409, §§ 6, 7 . R. L. 151, § 21.
" 409, § 8 . . R. L. 151, § 43.
" 410, § 1 . . R. L. 217, §§ 3–8.
" 410, § 2 . . T.
" 412 . . . . R. L. 173, §§ 108, 110; 219, § 35.
" 415 . . . . R. L. 23, § 18.
" 422 . . . . R. L. 51, § 20.
" 424, § 1 . . R. L. 165, §§ 80, 88.
" 424, §§ 2, 3 . R. L. 165, §§ 85, 86.
" 424, §§ 4–8 . R. L 165, §§ 80–82, 87, 88; R. in part, 1901, 329.
" 424, § 9 . . R. L. 175, § 68.
" 425 . . . . R. L. 56, § 62.
" 427 . . . . S. 1895, 201.
" 428, § 1 . . S. 1895, 379, § 1.
" 428, § 2 . . S. 1896, 396.
" 428, § 3 . . R. L. 100, § 5.
" 428, § 4 . . R. L. 100, §§ 10, 14, 42, 47; 102, § 2.
" 428, § 5 . . R. L. 100, § 11.
" 428, §§ 6–10 . R. L. 100, §§ 6–9.
" 429 . . . . R. L. 57, §§ 84, 85, 92.
" 431 . . . . R. L. 160, §§ 18, 19, 22–29, 31–33, 36–38, 49–59, 69; 167, §§ 2, 22; 173, §§ 54, 72, 128; 177, § 17; 197, § 10.
" 432 . . . . R. L. 34, § 2; S. in part, 1894, 448.
" 433 . . . . R. L. 161, § 45; 212, § 20.
" 435 . . . . R. 1896, 397, § 24.
" 436 . . . . R. 1898, 496, § 36.
" 437 . . . . R. 1894, 508, § 80. By repeal of 1892, 330.
" 440, § 1 . . S. 1895, 252.
" 440, § 2 . . R. L. 225, § 129.
" 442 . . . . S. 1894, 522, § 73.
" 444 . . . . R. L. 32, §§ 1–8, except
" 444, §§ 2, 7 . S. 1896, 303; 1898, 160.
" 448 . . . . R. L. 34, § 2.
" 450, §§ 1–3 . R. L. 109, §§ 24, 27, 28.
" 450, § 4 . . T.
" 451 . . . . R. L. 225, § 50.
" 452 . . . . R. L. 109, §§ 24, 27, 28.
" 455 . . . . R. L. 103, §§ 1–11; S. in part, 1895, 453.
" 457, §§ 1–5 . T.
" 457, §§ 6, 7 . R. L. 39, § 11.
" 458, §§ 1, 2 . R. L. 76, §§ 1, 2.
" 458, § 3 . . T.
" 458, § 4 . . S. 1897, 196; R. in part, 1901, 467, § 5.
" 458, §§ 5–7 . R. L. 76, §§ 4–6.
" 458, § 8 . . R. L. 76, § 3.
" 458, §§ 9–11 . R. 1901, 467, § 5.
" 460 . . . . S. 1897, 412, § 1.
" 461 . . . . R. L. 212, §§ 72, 77.
" 462, §§ 1–3 . R. L. 109, §§ 24, 28, 27.
" 462, § 4 . . T.
" 469 . . . . R. L. 70, § 8; 111, §§ 233, 241, 269.
" 470 . . . . R. L. 160, § 67.
" 471 . . . . R. 1898, 496, § 36.
" 472 . . . . R. L. 109, §§ 30, 31.
" 473 . . . . S. 1898, 548, § 334.
" 476 . . . . R. L. 126, § 11.
" 477, § 1 . . O.
" 477, § 2 . . R. L. 223, § 4.
" 479 . . . . R. L. 52, §§ 9–11, except
" 479, §§ 1, 2 . S. 1898, 121; 1900, 312.
" 481, §§ 1, 2 . R. L. 108, §§ 1, 7, 8; S. in part, 1895, 396; 418, § 8; 1896, 546, § 4; 1898, 261.

1894, c. 481, § 3 . . R. L. 105, § 1.
" 481, § 4 . . R. L. 104, § 10.
" 481, §§ 5–7 . R. L. 104, §§ 19–21.
" 481, §§ 8–10 . R. L. 106, § 17.
" 481, §§ 11–13, R. L. 104, §§ 1–3.
" 481, §§ 14–17, S. 1899, 139, §§ 1–4.
" 481, §§ 18, 19, 21, 22 . R. L. 104, §§ 8–10.
" 481, § 20 . . S. 1899, 139, § 5.
" 481, § 23 . . R. L. 104, § 41.
" 481, § 24 . . S. 1900, 335, § 1.
" 481, § 25 . . R. L. 104, §§ 22, 23.
" 481, § 26 . . R. L. 104, §§ 24, 51.
" 481, §§ 27–30, R. L. 104, §§ 15–18.
" 481, §§ 31, 32, R. L. 104, §§ 48, 49.
" 481, § 33 . . R. L. 104, § 23.
" 481, § 34 . . R. L. 104, § 26.
" 481, § 35 . . R. L. 108, § 8.
" 481, § 36 . . R. L. 104, § 54.
" 481, §§ 37–39, R. L. 104, §§ 50, 51, 53.
" 481, § 40 . . R. L. 104, § 11.
" 481, § 41 . . R. L. 104, § 43.
" 481, § 42 . . S. 1901, 439.
" 481, § 43 . . R. L. 104, § 28.
" 481, §§ 44–46, R. L. 104, §§ 33, 34, 47.
" 481, §§ 47, 48, R. L. 104, §§ 12, 13.
" 481, §§ 49, 50, R. L. 104, §§ 5, 6.
" 481, §§ 51–54, R. L. 104, §§ 38–40.
" 481, § 55 . . R. L. 108, § 8.
" 481, §§ 56, 57, R. L. 108, §§ 6, 2.
" 481, §§ 58, 59, R. L. 104, §§ 35, 38.
" 481, §§ 60, 62, R. L. 104, §§ 55, 56.
" 481, § 61 . . R. L. 106, § 17.
" 484 . . . . R. L. 14, § 3.
" 489 . . . . S. 1901, 186.
" 490 . . . . R. L. 12, § 23, cl. 5.
" 491, §§ 1–9, 27, 29, 30, 34–58 . . R. 1895, 496, § 15; 1899, 408, § 47.
" 491, §§ 10–13, R. L. 56, §§ 70–72; S. in part, 1899, 408, §§ 20, 28.
" 491, § 14 . . R. L. 217, §§ 1, 3.
" 491, §§ 15, 16, R. L. 56, §§ 73–75.
" 491, §§ 17–22, S. 1895, 496, §§ 3–8.
" 491, § 23 . . R. L. 75, § 107.
" 491, §§ 24–26, 28, 31–33 . S. 1899, 408, § 20.
" 491, §§ 59, 60, Acted on, and T.
" 493 . . . . R. L. 87, § 48.
" 496 . . . . R. L. 163, § 107.
" 497, § 1 . . S. 1898, 476.
" 497, § 2 . . S. 1896, 345, § 3; 1897, 355, § 1.
" 497, § 3 . . R. L. 47, § 9.
" 497, § 4 . . S. 1897, 355, § 2.
" 497, § 5 . . R. L. 47, § 12; R. in part, 1897, 153, § 14.
" 497, § 6 . . R. 1900, 253, § 3.
" 497, § 7 . . R. L. 47, § 11.
" 497, § 8 . . T.
" 498 . . . . R. 1898, 496, § 36, except
" 498, § 2 . . R. L. 44, § 2.
" 499 . . . . R. L. 106, §§ 71, 72, 74.
" 500 . . . . S. 1898, 503, § 2.
" 501 . . . . Acted on.
" 502 . . . . R. L. 111, § 61. Omitted in part as covered by 1894, 462.
" 503 . . . . R. 1898, 499.
" 504 . . . R. 1895, 502, § 1.
" 505 . . . . R. L. 216, §§ 4, 5.
" 506, § 1 . . R. L. 111, §§ 276, 278.
" 506, § 2 . . T.
" 508 . . . . R. L. 106, except
" 508, § 1 . . S. 1895, 129.

1894, c. 508, §§ 4, 5, 58 . . . S. 1898, 548, §§ 5, 409, 410.
" 508, § 10 . . S. 1900, 378.
" 508, §§ 13, 14, 16–25, 67, 69, 70 . . R. 1898, 494, § 9.
" 508, § 15 . . S. 1898, 494, § 1.
" 508, § 42 . . S. 1900, 239.
" 508, §§ 44, 45, 47 . . . S. 1898, 150.
" 508, § 49 . . S. 1898, 394.
" 508, § 62 . . S. & R. 1898, 494, §§ 6, 9.
" 508, § 77 . . Omitted.
" 508, § 79 . . T.
" 511, §§ 1, 2 . S. 1901, 171.
" 511, § 3 . . R. L. 75, § 41.
" 514, § 1 . . R. L. 176, § 18.
" 514, § 2 . . R. L. 176, § 5.
" 514, § 3 . . R. L. 176, § 9; S. in part, 1897, 515, § 4.
" 514, § 4 . . R. L. 176, § 39.
" 515 . . . . R. L. 75, §§ 136–139.
" 519 . . . . R. 1896, 517, § 8.
" 522 . . . . R. L. 118, except
" 522, § 3 . . S. 1897, 66.
" 522, § 5 . . S. 1895, 81.
" 522, §§ 6, 24 . S. 1897, 67.
" 522, §§ 11, 75, S. 1900, 363, §§ 1, 2.
" 522, § 13 . . S. 1898, 53.
" 522, § 16 . . S. 1897, 65.
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" 522, § 21 . . S. 1895, 271.
" 522, § 30 . . R. L. 110, § 16, in part.
" 522, §§ 29, 31, 80 . . . S. 1895, 474.
" 522, § 32 . . S. in part, 1896, 253.
" 522, § 34 . . Partly in R. L. 8, § 5.
" 522, § 39 . . S. 1896, 126.
" 522, § 42 . . R. 1895, 190, § 2.
" 522, §§ 44, 48, S. 1897, 197.
" 522, § 56 . . R. 1898, 178.
" 522, § 60 . . S. in part, 1895, 59, §§ 3, 4; 1896, 137.
" 522, § 61 . . S. 1899, 364, § 1.
" 522, § 64 . . Partly in R. L. 14, § 26.
" 522, § 76 . . S. 1896, 470.
" 522, § 78 . . R. L. 126, § 4; S. in part, 1896, 270.
" 522, § 83 . . S. 1898, 380, § 2.
" 522, § 84 . . S. 1898, 537, § 2.
" 522, § 92 . . S. 1896, 402.
" 525 . . . . R. L. 65, § 6.
" 527, § 1 . . R. L. 164, § 2.
" 527, §§ 2, 3 . R. 1897, 383, § 2.
" 528 . . . . R. L. 49, § 5.
" 532 . . . . Special, except
" 532, § 6 . . R. L. 10, § 20.
" 533 . . . . R. L. 34, §§ 1, 24.
" 534 . . . . R. L. 106, §§ 65, 67, 68.
" 535, §§ 1, 2, 7, R. L. 111, §§ 8, 9.
" 535, §§ 3–6, 8, S. 1897, 376.
" 536 . . . . R. L. 191, §§ 48–53.
" 537 . . . . R. L. 13, §§ 13, 49–51. Provision as to publication omitted. See R. L. 13, § 1.
" 538 . . . . R. L. 34, § 10.
" 541 . . . . R. L. 126, §§ 15, 16.
" 542 . . . . R. L. 100, § 89.
" 543 . . . . T.
" 545 . . . . S. 1898, 538.
" 547 . . . . R. L. 157, § 25.
1894, Res. c. 90 . . R. L. 41, § 2.
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" 10 . . . . R. L. 6, § 35.

1895, c. 11 . . . . R. L. 10, § 15.
" 27 . . . . R. 1898, 548, § 418.
" 28 . . . . R. L. 62, § 4.
" 34 . . . . R. L. 6, § 58.
" 46 . . . . S. 1897, 64.
" 54 . . . . R. L. 9, § 7.
" 55 . . . . T. See R. L. 92, § 16.
" 56 . . . . R. L. 91, § 2; 92, § 19.
" 57 . . . . Special.
" 59, § 1 . . R. L. 118, § 20.
" 59, § 2 . . R. L. 118, §§ 90, 93; S. in part, 1895, 159; 1896, 448.
" 59, §§ 3, 4 . R. L. 118, § 60.
" 61 . . . . R. 1898, 548, § 418.
" 66 . . . . R. L. 113, § 2.
" 75 . . . . R. L. 12, § 81.
" 81 . . . . R. L. 118, § 5.
" 88, § 1 . . R. 1897, 110, § 2.
" 88, § 2 . . R. L. 91, §§ 40, 42.
" 89 . . . . R. 1895, 299, § 8.
" 93 . . . . R. L. 9, § 15.
" 94 . . . . Unconstitutional. 1 Op. A. G. 319.
" 96 . . . . R. L. 9, § 7.
" 100 . . . . Acted on.
" 103 . . . . R. L. 111, § 156.
" 104 . . . . S. 1898, 474, § 9.
" 105 . . . . R. L. 36, § 49.
" 106 . . . . R. L. 66, §§ 1, 6.
" 111 . . . . R. L. 21, § 40.
" 112 . . . . R. L. 20, § 14.
" 113 . . . . R. L. 21, § 3.
" 115 . . . . R. L. 206, § 6.
" 116 . . . . R. L. 159, § 36; 162, § 25.
" 117 . . . . S. 1896, 236.
" 118 . . . . Acted on.
" 120 . . . . R. L. 176, § 29.
" 125 . . . . R. L. 160, § 67.
" 127 . . . . R. L. 49, § 28.
" 129 . . . . R. L. 106, § 10.
" 132 . . . . S. 1901, 262.
" 133 . . . . R. L. 21, § 3.
" 134 . . . . R. L. 141, § 22. Omitted in part.
" 136 . . . . R. L. 112, § 53.
" 140 . . . . R. L. 146, § 26.
" 141 . . . . Omitted by committee on revision.
" 142 . . . . R. L. 25, § 62; 26, § 2.
" 143 . . . . R. 1897, 153, § 14.
" 144, §§ 1, 3 . S. 1901, 370.
" 144, § 2 . . R. L. 106, § 68.
" 146 . . . . R. L. 222, § 3.
" 153, § 1 . . R. L. 173, § 106; 219, § 35.
" 153, § 2 . . S. 1896, 451.
" 157 . . . . S. 1900, 280.
" 159 . . . . R. L. 118, § 90.
" 162 . . . . R. L. 212, § 20.
" 164 . . . . R. L. 8, § 5, cl. 12; 113, § 26, cl. 2, f; 118, § 34, cl. 2.
" 169 . . . . R. L. 110, § 86.
" 171 . . . . R. L. 114, § 30.
" 172 . . . . R. L. 114, § 20.
" 173 . . . . R. L. 111, § 196.
" 174 . . . . R. L. 164, § 29.
" 175 . . . . R. L. 21, § 46.
" 176 . . . . R. L. 160, § 2. Special in part, S. in part, 1898, 460.
" 181 . . . . R. L. 42, § 49.
" 183, § 1 . . S. 1897, 136.
" 183, § 2 . . R. L. 127, §§ 30, 31.
" 186 . . . . R. L. 25, § 22.
" 190 . . . . R. L. 118, § 42.
" 193 . . . . R. L. 10, §§ 11–13.
1895, c. 194 . . . . R. L. 212, §§ 43, 44.
" 195 . . . . R. L. 222, § 3.
" 196 . . . . R. 1898, 548, § 418.
" 199 . . . . R. L. 91, § 67.
" 201 . . . . S. 1898, 533, §§ 85, 146.
" 202 . . . . R. 1897, 148, § 3.
" 207 . . . . R. 1898, 548, § 418.
" 209 . . . . R. L. 163, § 129.
" 210 . . . . R. L. 150, § 2.
" 212 . . . . R. 1898, 496, § 36.
" 213, § 1 . . S. 1896, 332.
" 213, §§ 2, 3 . R. L. 102, §§ 69, 71.
" 214 . . . . R. L. 89, § 12.
" 215 . . . . S. 1901, 61.
" 216 . . . . R. 1898, 496, § 36.
" 217 . . . . R. L. 25, § 14.
" 218 . . . . R. L. 160, § 26; 220, § 15.
" 220 . . . . R. 1898, 548, § 418.
" 224 . . . . R. L. 160, § 53.
" 227 . . . . R. L. 25, § 23; 49, § 13.
" 228 . . . . R. L. 122, §§ 20, 21.
" 234 . . . . R. L. 193, §§ 14–37, except
" 234, § 26 . . R. L. 173, § 39.
" 237 . . . . R. 1898, 548, § 418.
" 238 . . . . R. L. 9, § 2.
" 240 . . . . R. 1898, 548, § 418.
" 242 . . . . R. 1898, 548, § 418.
" 243 . . . . R. L. 27, § 16.
" 244 . . . . R. 1898, 548, § 418.
" 245 . . . . R. L. 160, § 70.
" 246 . . . . R. L. 165, §§ 73, 76, 77.
" 250 . . . . S. 1899, 336.
" 251 . . . . R. L. 165, §§ 6, 21, 35.
" 252 . . . . S. 1897, 206.
" 253 . . . . R. 1896, 469, § 7; 1898, 548, § 418.
" 256 . . . . Acted on.
" 259 . . . . R. L. 222, § 3; 225, § 16.
" 260 . . . . S. 1901, 336.
" 262 . . . . R. 1898, 548, § 418.
" 263 . . . . S. 1896, 515, § 7.
" 271 . . . . R. L. 118, § 21.
" 273 . . . . R. L. 225, §§ 99, 104, 105, 108.
" 275 . . . . R. 1898, 548, § 418.
" 276 . . . . R. L. 6, § 4; S. in part, 1901, 211.
" 277 . . . . R. L. 91, § 66.
" 281 . . . . R. 1898, 474, § 24.
" 282, § 1 . . R. L. 91, §§ 104, 105, 108–111.
" 282, § 2 . . R. L. 91, § 105.
" 282, § 3 . . R. L. 91, § 85.
" 284 . . . . R. L. 10, §§ 3, 4, 8, 10.
" 285 . . . . R. 1898, 548, § 418.
" 286, § 1 . . R. L. 87, § 35.
" 286, § 2 . . R. L. 87, § 35; S. in part, 1898, 433, § 19.
" 288 . . . . R. L. 150, § 22.
" 290 . . . . R. L. 107, § 2; S. in part, 1899, 115.
" 293 . . . . R. L. 111, § 270.
" 295 . . . . R. L. 32, §§ 59, 61.
" 296 . . . . R. L. 25, § 23; 26, § 2.
" 299 . . . . R. 1898, 548, § 418.
" 300 . . . . R. L. 14, § 52.
" 307 . . . . S. 1896, 108.
" 308 . . . . Acted on.
" 310, § 1 . . R. L. 83, § 15; S. in part, 1898, 433, § 23.
" 310, § 2 . . S. 1898, 483.
" 311 . . . . R. L. 126, §§ 3, 4, 12, 13.
" 313 . . . . R. L. 111, §§ 8, 9, 10.
" 316 . . . . R. L. 112, § 76.
" 318 . . . . R. L. 108, §§ 21–25.
" 322 . . . . S. 1901, 364.

1895, c. 323 . . . . R. 1898, 548, § 418.
" 330 . . . . R. L. 121, § 40.
" 332 . . . . R. L. 75, § 9.
" 337 . . . . R. L. 100, §§ 17, 41.
" 338 . . . . R. L. 26, § 18.
" 340 . . . . S. 1898, 474, §§ 8, 19.
" 347 . . . . T.
" 348 . . . . R. L. 69, §§ 7–14.
" 350 . . . . R. L. 25, §§ 52, 54; 121, § 26; 122, §§ 1, 3, 4.
" 351 . . . . R. L. 124, § 2.
" 355 . . . . R. 1898, 548, § 418.
" 356 . . . . R. L. 111, §§ 92, 96. Omitted in part, as superfluous.
" 361 . . . . R. L. 79, §§ 3, 6.
" 362 . . . . R. L. 111, §§ 201–209.
" 363 . . . . T.
" 364 . . . . R. L. 164, § 29.
" 366 . . . . R. L. 118, § 71.
" 368 . . . . T.
" 369 . . . . S. 1897, 342.
" 371 . . . . Special.
" 372 . . . . R. L. 165, § 17.
" 373 . . . . S. 1896, 490, § 1.
" 374 . . . . R. 1898, 548, § 418. See R. L. 25, § 81.
" 375 . . . . S. 1898, 196.
" 376 . . . . R. L. 19, § 2.
" 378, § 1 . . R. L. 112, § 52.
" 378, § 2 . . T.
" 379, § 1 . . R. L. 100, § 3.
" 379, § 2 . . T.
" 380 . . . . R. L. 177, § 17.
" 383 . . . . R. L. 225, § 136.
" 385 . . . . R. L. 213, § 5.
" 387 . . . . R. L. 126, § 10.
" 388 . . . . R. L. 190, §§ 15, 16.
" 390, §§ 1, 2 . R. L. 85, § 41.
" 390, § 3 . . R. L. 225, §§ 101–103.
" 390, § 4 . . R. L. 218, § 16; 219, § 17.
" 390, §§ 5, 6 . R. L. 85, §§ 42–45; S. in part, 1898, 433, §§ 23, 28.
" 390, § 7 . . R. L. 219, § 16.
" 392 . . . . R. L. 6, § 4.
" 393 . . . . S. 1895, 480.
" 394, §§ 1–5 . R. L. 163, §§ 170–173.
" 394, §§ 6–8 . R. L. 163, § 118.
" 396 . . . . R. L. 108, § 1.
" 398 . . . . R. 1898, 548, § 418.
" 400 . . . . R. L. 75, § 39.
" 402 . . . . R. L. 5, § 2.
" 404 . . . . R. L. 197, § 28.
" 406 . . . . Special.
" 410 . . . . S. 1896, 342, §§ 1, 2.
" 412 . . . . R. 1901, 467, § 5.
" 415, § 1 . . S. 1898, 533, § 136.
" 415, § 2 . . S. 1898, 533, § 155.
" 415, § 3 . . S. 1898, 533, § 85.
" 415, § 4 . . T.
" 418, §§ 1, 3–5, R. L. 105, §§ 2, 4, 5.
" 418, § 2 . . S. 1898, 167.
" 418, § 6 . . R. L. 108, § 2.
" 418, § 7 . . R. L. 105, § 6.
" 418, § 8 . . R. L. 105, § 1; 108, §§ 1, 5.
" 419, § 1 . . R. L. 8, § 5, cl. 2.
" 419, § 2 . . R. L. 214, § 27.
" 419, §§ 3–5 . R. L. 214, §§ 20–22.
" 419, § 6 . . R. L. 214, § 28.
" 419, §§ 7, 8 . R. L. 214, §§ 18, 19.
" 419, § 9 . . R. L. 214, §§ 5, 23, 24.
" 419, § 10 . . R. L. 101, § 8.
" 419, §§ 11, 12, R. L. 99, §§ 1, 2.
" 419, § 13 . . R. L. 214, §§ 7–9, 11, 15–17.
" 420 . . . . R. L. 121, § 24.

1895, c. 421 . . . . Special.
" 424 . . . . R. L. 7, § 13.
" 425 . . . . R. 1896, 547, § 9; 1898, 548, § 418.
" 426, §§ 1, 2 . R. L. 112, §§ 63, 64.
" 426, § 3 . . T.
" 427 . . . . R. L. 151, § 6.
" 428, § 1 . . Acted on.
" 428, § 2 . . R. L. 86, § 1.
" 428, §§ 3, 4 . R. L. 86, §§ 1, 33, 36.
" 429 . . . . R. L. 87, § 34.
" 430 . . . . R. L. 15, §§ 4, 9.
" 431 . . . . R. L. 222, § 2.
" 432 . . . . R. L. 163, § 60.
" 434, § 1 . . R. L. 98, § 1.
" 434, § 2 . . R. L. 98, §§ 2, 3; S. in part, 1900, 440.
" 434, § 3 . . R. L. 102, § 172.
" 434, § 4 . . R. L. 98, § 5.
" 436 . . . . T.
" 437 . . . . R. L. 178, § 21.
" 438 . . . . S. 1896, 334.
" 441 . . . . R. 1897, 525, § 4.
" 444 . . . . R. L. 49, § 44.
" 445 . . . . R. L. 81, §§ 22–24; S. in part, 1898, 443, § 1.
" 452 . . . . S. 1898, 160.
" 453 . . . . R. L. 103, §§ 5, 7, 12.
" 456 . . . . R. L. 64, § 3.
" 457, §§ 1, 2, 4, 5 . . . R. L. 160, §§ 64, 65.
" 457, § 3 . . Acted on.
" 459 . . . . R. L. 164, § 29.
" 460 . . . . R. L. 127, § 23.
" 461 . . . . R. L. 212, § 89.
" 462, §§ 1, 2, 4, S. 1899, 359, §§ 1–3.
" 462, §§ 3, 5 . R. L. 72, §§ 9, 12.
" 462, § 6 . . S. 1899, 359, § 6.
" 462, § 7 . . T.
" 463, § 1 . . R. 1899, 365, § 2.
" 463, § 2 . . R. L. 9, § 7.
" 465, § 1 . . S. 1897, 448, § 2.
" 465, § 2 . . R. L. 16, § 14.
" 465, § 3 . . R. L. 16, § 35.
" 465, § 4 . . S. 1897, 448, § 5.
" 465, § 5 . . R. L. 16, § 116.
" 465, § 6 . . S. 1900, 162.
" 465, § 7 . . R. L. 16, § 148.
" 465, § 8 . . R. L. 16, § 151.
" 469 . . . . R. L. 220, § 3.
" 471 . . . . S. 1896, 546.
" 472 . . . . T.
" 474, §§ 1, 2 . S. 1896, 447.
" 474, § 3 . . R. L. 118, § 80.
" 475 . . . . S. 1899, 299.
" 476 . . . . R. by repeal of 1894, 491, §§ 1, 2.
" 480 . . . . R. L. 165, §§ 6, 35.
" 481 . . . . R. L. 70, § 7.
" 482 . . . . R. 1896, 357, § 6.
" 483, § 1 . . R. L. 87, § 16. T. in part.
" 483, § 2 . . R. L. 87, § 21.
" 483, § 3 . . R. L. 87, §§ 23, 24.
" 483, §§ 4, 6 . R. L. 87, §§ 27, 29.
" 483, § 5 . . T.
" 483, § 7 . . R. L. 87, § 26. T. in part.
" 483, §§ 8, 10, S. 1899, 211, §§ 1, 2.
" 483, § 9 . . R. L. 87, §§ 66, 74.
" 483, § 11 . . R. L. 87, §§ 66, 89. T. in part.
" 483, § 12 . . R. L. 87, § 77.
" 483, § 13 . . Special.
" 486 . . . . R. 1896, 513, § 2.
" 488 . . . . Special.
" 489 . . . . R. 1898, 548, § 418.

1895, c. 493, § 1 . . R. L. 22, § 32; S. in part, 1898, 333.
" 493, § 2 . . R. 1896, 172, § 2.
" 493, § 3 . . R. L. 22, § 34.
" 493, § 4 . . R. L. 21, § 48.
" 493, § 5 . . Acted on.
" 496, §§ 1, 2, 9–12. . . R. 1899, 408, § 47.
" 496, §§ 3, 4 . R. L. 75, §§ 99, 100; S. in part, 1897, 428, § 2.
" 496, §§ 5–8 . R. L. 75, §§ 101, 102, 105, 106.
" 496, § 13 . . T.
" 496, § 14 . . S. & R. 1896, 276; 1897, 165; 1899, 408, § 47.
" 497 . . . . R. L. 102, §§ 39–45, except
" 497, § 6 . . S. 1898, 515.
" 500 . . . . S. 1900, 419.
" 501 . . . . R. 1896, 517, § 8.
" 502, § 1 . . Acted on.
" 502, § 2 . . R. 1898, 548, § 418.
" 503 . . . . R. L. 88, except
" 503, §§ 4, 6, 12, T. & S. in part, 1900, 192.
" 504, § 1 . . R. L. 220, § 20.
" 504, § 2 . . S. 1898, 240.
" 504, § 3 . . R. L. 225, § 129.
" 506, § 1 . . T.
" 506, §§ 2, 3 . R. 1898, 548, § 418.
" 507 . . . . S. & R. 1897, 530, § 26; 1898, 171; 548, § 418.
" 508 . . . . R. 1898, 548, § 418.
1895, Res. c. 68 . . R. L. 10, § 9.
1896, c. 73 . . . . R. 1898, 548, § 418.
" 78 . . . . T.
" 86 . . . . R. L. 9, § 7.
" 96 . . . . S. 1897, 97.
" 102 . . . . S. 1898, 474, § 20.
" 108 . . . . R. L. 15, § 1.
" 109 . . . . R. 1898, 548, § 418.
" 124 . . . . R. L. 118, § 77.
" 126 . . . . S. 1897, 62.
" 128 . . . . S. 1897, 153, § 6.
" 133 . . . . R. L. 39, § 11.
" 136 . . . . S. 1898, 474, § 12.
" 137 . . . . S. 1897, 357.
" 140 . . . . R. L. 118, § 56.
" 147 . . . . R. L. 21, § 3.
" 152 . . . . R. L. 25, § 18.
" 158 . . . . R. L. 50, §§ 15–18.
" 162, § 1 . . R. L. 8, § 5, cl. 9.
" 162, § 2 . . R. L. 100, §§ 17, 41.
" 169 . . . . R. L. 100, § 43.
" 171 . . . . R. L. 118, § 34.
" 172 . . . . R. L. 22, § 33.
" 176 . . . . R. L. 21, § 4.
" 178 . . . . R. L. 113, § 26, cl. 3, h.
" 179 . . . . S. 1898, 496, § 17.
" 182 . . . . R. L. 16, § 30.
" 186 . . . . R. L. 40, § 1.
" 189 . . . . R. L. 9, § 7.
" 190 . . . . S. 1899, 330.
" 193 . . . . R. L. 113, § 53.
" 199 . . . . R. L. 28, § 30.
" 203 . . . . R. L. 187, § 35.
" 208 . . . . R. L. 149, § 25.
" 210 . . . . R. 1897, 147, § 2.
" 218 . . . . R. L. 165, §§ 5, 35.
" 219 . . . . R. L. 164, § 29.
" 220 . . . . R. L. 160, § 42.
" 221 . . . . R. L. 9, § 7.
" 223 . . . . R. L. 9, § 7.
" 225 . . . . R. L. 108, §§ 14, 16.
" 228 . . . . R. 1896, 496, § 2.
" 229 . . . . R. L. 91, § 70.
1896, c. 230 . . . . R. L. 76, §§ 3, 8, except
" 230, § 2 . . T. in part.
" 231 . . . . R. L. 113, § 33.
" 234 . . . . R. L. 160, § 57.
" 236 . . . . R. L. 49, §§ 22, 23.
" 240 . . . . R. L. 160, § 2.
" 241 . . . . R. L. 106, § 62.
" 244 . . . . R. 1898, 548, § 418.
" 247 . . . . R. L. 168, § 28.
" 248 . . . . R. L. 6, § 18; 9, § 14.
" 251, § 1 . . R. L. 49, §§ 22, 45.
" 251, § 2 . . S. 1897, 151.
" 252 . . . . R. L. 75, §§ 124, 126.
" 253 . . . . R. L. 118, § 32.
" 254 . . . . R. L. 89, § 2.
" 256 . . . . R. L. 19, § 11.
" 258 . . . . R. L. 9, § 7.
" 264 . . . . R. L. 56, § 59.
" 268 . . . . R. L. 91, §§ 83, 84; S. in part, 1901, 237.
" 269 . . . . R. L. 27, § 9.
" 270 . . . . R. L. 118, § 78.
" 272 . . . . R. L. 100, § 17.
" 275 . . . . R. L. 223, § 38.
" 276 . . . . S. & R. 1897, 165; 1899, 408, § 47.
" 277 . . . . R. L. 114, § 11.
" 279, § 1 . . S. 1897, 164.
" 279, § 2 . . R. L. 79, § 21.
" 280 . . . . R. L. 32, § 60.
" 285 . . . . R. L. 114, § 18.
" 286 . . . . R. L. 114, § 1.
" 288 . . . . R. L. 83, § 35.
" 291 . . . . R. L. 25, § 15.
" 297 . . . . R. L. 57, §§ 11–17.
" 302 . . . . R. L. 24, § 14.
" 303 . . . . R. L. 32, § 2.
" 304 . . . . R. L. 223, § 28.
" 306 . . . . R. L. 151, §§ 41, 40, 30, except
" 306, § 3 . . Acted on.
" 308 . . . . R. L. 100, §§ 41, 53.
" 310 . . . . Special.
" 313, § 1 . . S. 1897, 379.
" 313, §§ 2, 3 . R. L. 28, § 16.
" 314 . . . . R. L. 108, §§ 26–28.
" 316 . . . . R. L. 164, § 30.
" 317 . . . . R. L. 225, § 82.
" 319 . . . . R. 1898, 548, § 418.
" 326 . . . . R. L. 6, § 4.
" 327 . . . . R. L. 113, § 51.
" 331 . . . . R. 1899, 204, § 3.
" 332 . . . . S. 1897, 300, § 3.
" 334 . . . . S. 1898, 481.
" 335 . . . . R. L. 118, § 5.
" 337 . . . . R. L. 160, § 67.
" 338 . . . . R. L. 121, § 39.
" 339 . . . . R. L. 212, §§ 22, 23.
" 342 . . . . R. L. 3, §§ 27, 31.
" 343 . . . . R. L. 104, § 42.
" 344 . . . . R. L. 208, §§ 119, 120.
" 345 . . . . R. L. 47, §§ 6, 13, 14, 18.
" 346 . . . . R. L. 118, § 61.
" 347 . . . . R. L. 4, § 2.
" 348 . . . . R. L. 16, § 75.
" 353 . . . . R. L. 160, §§ 2. 67, 68, except so far as special.
" 355 . . . . R. L. 173, §§ 98, 99.
" 356 . . . . S. 1896, 480.
" 357 . . . . R. 1897, 153, § 14.
" 360 . . . . R. 1898, 496, § 36.
" 361 . . . . R. L. 118, § 61.
" 369 . . . . R. L. 110, §§ 51, 53, 57, 84, 86.
" 377 . . . . R. L. 56, §§ 41, 47.

1896, c. 380 . . . . R. L. 26, §§ 29, 30.
" 381 . . . . R. L. 3, §§ 6, 7.
" 382 . . . . R. 1898, 496, § 36.
" 383 . . . . R. 1898, 548, § 418.
" 384 . . . . R. L. 20, §§ 18, 19.
" 385 . . . . R. L. 212, § 56.
" 388 . . . . R. L. 216, § 4.
" 389 . . . . R. L. 208, § 20.
" 391, § 1 . . R. L. 126, §§ 17, 19.
" 391, § 2 . . S. 1897, 423.
" 396 . . . . R. L. 100, §§ 3, 4.
" 397, §§ 1, 5 . S. 1899, 422, § 1.
" 397, §§ 2–4, 6–9 . . . R. L. 76, §§ 11–13, 15–17.
" 397, § 9 . . S. in part, 1901, 522.
" 397, § 10 . . R. L. 100, §§ 10, 21, 22, 25.
" 397, §§ 11, 12, R. L. 100, §§ 23, 24.
" 397, § 13 . . R. L. 100, §§ 18, 25.
" 397, § 14 . . S. 1901, 91.
" 397, §§ 15, 16, R. L. 100, §§ 27, 28, 54.
" 397, § 17 . . R. L. 100, § 29; 220, § 10.
" 397, § 18 . . S. 1900, 317.
" 397, § 19 . . R. L. 75, § 26.
" 397, § 20 . . S. 1898, 192.
" 397, §§ 21–23, R. L. 76, §§ 19, 20, 23.
" 398, §§ 1, 3 . R. L. 56, §§ 58, 60.
" 398, § 2 . . S. 1899, 223.
" 401 . . . . R. L. 158, § 3.
" 402 . . . . R. L. 118, § 88; S. in part, 1897, 63.
" 404 . . . . R. L. 198, § 15.
" 407 . . . . Special.
" 408 . . . . S. 1897, 498.
" 409 . . . . R. L. 112, § 20.
" 412 . . . . R. L. 156, § 20; 157, § 24.
" 413 . . . . R. L. 165, §§ 16, 21.
" 418 . . . . R. L. 75, §§ 28–34.
" 422 . . . . R. L. 207, § 12.
" 423 . . . . R. L. 116, §§ 12, 20, 29.
" 424 . . . . R. L. 19, § 11.
" 425 . . . . S. 1897, 448, § 9.
" 426 . . . . R. L. 121, § 9.
" 427 . . . . R. L. 176, § 1.
" 429 . . . . R. L. 39, § 9.
" 435 . . . . R. 1898, 548, § 418.
" 439, §§ 1, 3 . R. L. 111, § 158.
" 439, § 2 . . T.
" 440 . . . . R. 1899, 462, § 4.
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" 443, § 6 . . R. L. 5, § 10.
" 443, § 7 . . R. L. 204, § 29.
" 444 . . . . R. L. 173, § 2.
" 445 . . . . R. L. 175, § 67.
" 447 . . . . S. 1900, 92.
" 448 . . . . R. L. 118, § 90.
" 449 . . . . R. L. 19, § 36.
" 451 . . . . R. L. 173, § 111.
" 455 . . . . R. L. 25, § 15.
" 456 . . . . R. L. 145, §§ 23, 24, 39.
" 459 . . . . R. L. 165, §§ 80–82, 85, 87, 88, except
" 459, § 7 . . R. L. 175, § 68.
" 464 . . . . R. L. 178, § 43.
" 469 . . . . R. 1898, 548, § 418.
" 470 . . . . S. 1900, 363, § 3.
" 473 . . . . R. L. 109, §§ 26, 27.
" 476 . . . . R. L. 17, §§ 5, 6.
" 477 . . . . R. L. 25, § 15.
" 480 . . . . R. L. 34, § 27; 121, § 30.
" 482 . . . . R. L. 87, § 32; S. in part, 1898, 433, § 28.
" 490 . . . . R. L. 7, §§ 1, 9.
" 494 . . . . R. L. 106, § 14.
" 496 . . . . S. 1898, 533, § 85.

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" 499 . . . . R. L. 151, § 6.
" 501 . . . . R. L. 112, § 92.
" 502 . . . . R. L. 19, § 9.
" 509 . . . . R. L. 11, §§ 423–425.
" 513 . . . . R. & S. 1897, 355, § 3; 1901, 416, § 3.
" 515 . . . . R. 1899, 229, § 6.
" 516, § 4 . . In part, R. L. 113, § 26.
" 517 . . . . R. L. 19, §§ 7, 20–22, 24, 35, except
" 517, § 5 . . S. 1901, 339.
" 518 . . . . R. 1898, 548, § 418.
" 519 . . . . S. 1901, 511.
" 520 . . . . Special.
" 522 . . . . R. L. 18, § 13.
" 523 . . . . R. L. 71, § 5; 110, § 86.
" 526 . . . . R. L. 157, § 1.
" 527 . . . . R. 1898, 548, § 418.
" 540 . . . . R. L. 51, § 19.
" 541 . . . . R. 1898, 578, § 26.
" 544 . . . . R. L. 110, §§ 76, 77.
" 546 . . . . S. 1899, 368, except
" 546, § 4 . . In part, R. L. 108, §§ 1, 5.
" 547 . . . . R. 1897, 296, § 8.
" 550 . . . . R. 1899, 419, § 3.
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" 63 . . . . R. L. 118, § 88.
" 64 . . . . R. L. 118, § 87.
" 65 . . . . R. L. 118, § 16.
" 66 . . . . R. L. 118, § 3.
" 67, § 1 . . R. L. 118, § 6.
" 67, § 2 . . R. L. 118, §§ 15, 24.
" 89 . . . . R. L. 154, § 14; 163, § 177.
" 91 . . . . R. 1898, 548, § 418.
" 97 . . . . S. 1901, 8.
" 99 . . . . R. L. 111, § 56.
" 109 . . . . R. L. 113, § 31.
" 110 . . . . R. L. 91, §§ 41, 79.
" 111 . . . . Acted on.
" 113 . . . . R. L. 3, § 18.
" 114 . . . . R. L. 10, § 29.
" 116, § 1 . . R. L. 25, § 23.
" 116, § 2 . . R. L. 49, § 36.
" 117 . . . . R. L. 57, §§ 18–20.
" 118 . . . . R. L. 118, § 19.
" 119 . . . . R. L. 163, § 119.
" 120 . . . . R. L. 163, § 64.
" 124 . . . . R. L. 163, § 149.
" 126 . . . . R. L. 13, §§ 2, 6, 12.
" 128, § 1 . . R. L. 21, § 1; S. in part, 1898, 317.
" 128, § 2 . . R. L. 21, §§ 12, 34.
" 128, § 3 . . R. L. 21, § 39.
" 128, § 4 . . R. L. 21, § 9.
" 129 . . . . R. L. 21, § 47.
" 130, §§ 1–3 . R. L. 20, § 36; 21, § 7.
" 130, § 4 . . R. L. 21, § 38.
" 131 . . . . R. L. 149, § 30.
" 132 . . . . S. 1901, 76.
" 134, § 1 . . R. L. 38, § 11.
" 134, § 2 . . R. L. 9, § 7.
" 135 . . . . R. 1900, 345, § 6.
" 136 . . . . R. L. 127, § 29.
" 137, § 1 . . R. L. 20, § 24.
" 137, § 2 . . S. 1900, 119.
" 138 . . . . R. L. 49, §§ 16–20.
" 140 . . . . R. L. 92, § 10.
" 141 . . . . R. L. 9, § 7.
" 146 . . . . Special.
" 147 . . . . R. L. 162, § 46.
" 148, § 1 . . S. 1898, 370.
" 148, § 2 . . R. L. 12, § 5, cl. 13.
" 151 . . . . R. L. 49, §§ 21, 45.

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" 153, §§ 6, 7 . S. in part, 1898, 317.
" 160 . . . . R. L. 100, §§ 17, 41.
" 161 . . . . R. L. 114, § 21.
" 164 . . . . S. 1900, 102.
" 165 . . . . R. 1899, 408, § 47.
" 173 . . . . R. L. 145, § 7.
" 179 . . . . R. 1898, 525, § 8.
" 180 . . . . R. L. 160, § 29.
" 183 . . . . R. L. 160, §§ 58, 67.
" 184 . . . . S. 1901, 174.
" 186 . . . . R. L. 118, § 110.
" 187, § 1 . . S. 1900, 294, § 1.
" 187, § 2 . . R. L. 76, § 26.
" 188 . . . . R. L. 4, § 7.
" 196 . . . . R. L. 76, § 3; R. in part, 1901, 467, § 5.
" 197 . . . . R. L. 118, §§ 44, 48.
" 199 . . . . R. L. 137, § 13.
" 204 . . . . R. L. 10, § 18.
" 206 . . . . R. L. 225, §§ 114, 127, 128.
" 207 . . . . R. L. 100, §§ 38, 53.
" 208 . . . . R. L. 91, § 19.
" 210 . . . . R. 1898, 548, § 418.
" 213 . . . . R. L. 112, §§ 85, 89, 90.
" 220 . . . . R. L. 165, §§ 4, 35.
" 224 . . . . R. L. 156, § 4.
" 227 . . . . R. L. 100, § 20.
" 228 . . . . S. 1898, 474, § 11.
" 233 . . . . R. L. 100, § 45.
" 236 . . . . R. L. 220, § 2; S. in part, 1900, 449, § 2.
" 237, § 1 . . Acted on.
" 237, § 2 . . R. L. 82, § 1.
" 241 . . . . R. L. 36, §§ 18, 39.
" 243 . . . . R. L. 9, § 7.
" 245 . . . . R. L. 20, § 6; 160, § 40.
" 247 . . . . R. L. 163, §§ 150, 162–165.
" 253 . . . . R. L. 16, § 117.
" 254, §§ 1–3 . R. L. 53, § 14; 208, § 9.
" 254, §§ 4–8 . R. L. 32, §§ 17, 20–23.
" 254, § 9 . . R. L. 208, § 9.
" 254, § 10 . . R. L. 32, § 24.
" 254, §§ 11, 12, R. L. 25, § 17; 32, § 25.
" 256 . . . . S. 1901, 211.
" 257 . . . . R. L. 21, § 3.
" 260, § 1 . . Special.
" 260, § 2 . . R. L. 160, § 67.
" 262 . . . . R. L. 113, § 26, cl. 4, b.
" 263 . . . . R. L. 160, § 67.
" 264 . . . . R. L. 111, §§ 143, 149, 151–153.
" 266, § 1 . . R. L. 217, §§ 81, 92.
" 266, § 2 . . R. L. 217, § 84.
" 266, § 3 . . R. L. 217, §§ 81, 95.
" 269 . . . . R. L. 112, §§ 86–88.
" 271 . . . . R. L. 100, §§ 49–52, except
" 271, § 5 . . S. 1897, 487, § 1.
" 272 . . . . R. L. 225, § 129.
" 273 . . . . R. L. 66, § 9.
" 274 . . . . R. L. 49, §§ 15, 21–23.
" 287, § 1 . . S. 1898, 548, § 321.
" 287, § 2 . . R. L. 11, § 426.
" 288, § 1 . . R. L. 91, §§ 3, 4, 77, 91, 127.
" 288, § 2 . . T.
" 292 . . . . R. L. 198, § 28.
" 294, § 1 . . R. L. 220, § 20.
" 294, § 2 . . R. L. 225, § 115.
" 296 . . . . R. 1898, 548, § 418.
" 299 . . . . S. 1899, 379.
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" 300, § 3 . . R. L. 102, § 69.
" 303 . . . . R. L. 163, §§ 122, 123.
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" 305 . . . . R. L. 102, § 10.
" 306 . . . . R. L. 7, § 12; S. in part, 1901, 500.
" 315 . . . . R. L. 112, § 54.
" 316 . . . . R. L. 20, § 28.
" 317 . . . . R. L. 164, § 29.
" 318 . . . . R. L. 160, § 67.
" 321 . . . . R. L. 150, § 13.
" 322 . . . . R. L. 160, § 67.
" 324 . . . . S. 1900, 400.
" 325 . . . . S. 1900, 229.
" 326 . . . . R. L. 147, § 22.
" 328 . . . . R. L. 19, § 12.
" 329 . . . . R. L. 223, § 39.
" 334 . . . . R. L. 165, §§ 6, 35.
" 337, §§ 1, 2 . R. L. 109, §§ 24, 25.
" 337, § 3 . . T.
" 342 . . . . R. L. 165, § 75.
" 344 . . . . R. L. 75, §§ 16–18, 22–24.
" 349 . . . . R. L. 160, § 30; 161, § 34.
" 350 . . . . R. L. 225, §§ 136, 137.
" 351 . . . . R. L. 5, § 2.
" 355, § 1 . . R. L. 47, §§ 6, 11.
" 355, § 2 . . R. L. 47, § 10; S. in part, 1900, 404.
" 355, § 3 . . R. 1901, 416, § 3.
" 355, §§ 4, 5 . R. by repeal of 1896, 541.
" 356 . . . . R. L. 160, § 67.
" 357 . . . . R. L. 118, § 60.
" 358 . . . . R. L. 160, § 67.
" 359 . . . . S. 1898, 372.
" 360 . . . . R. L. 160, § 57.
" 362 . . . . R. L. 113, § 2.
" 374 . . . . R. 1898, 396, § 3.
" 376, § 1 . . R. L. 111, § 223.
" 376, § 2 . . R. L. 24, § 11; 111, § 224.
" 376, § 3 . . R. L. 111, § 18.
" 376, § 4 . . R. L. 111, § 10.
" 379 . . . . R. L. 28, § 16.
" 381 . . . . R. L. 157, § 25.
" 382 . . . . R. L. 168, § 20.
" 383 . . . . R. L. 164, § 27.
" 385 . . . . R. L. 211, § 12.
" 386 . . . . R. L. 175, § 70.
" 387 . . . . R. 1897, 529.
" 389 . . . . R. L. 98, § 15.
" 390 . . . . R. L. 160, § 67.
" 391 . . . . R. L. 16, § 24.
" 392 . . . . R. L. 96, § 3.
" 397, § 1 . . R. L. 160, § 67.
" 397, § 2 . . T.
" 398, § 1 . . R. L. 100, §§ 10, 18, 19, 30.
" 398, §§ 2, 3 . R. L. 100, §§ 31, 32.
" 398, § 4 . . R. L. 100, § 27.
" 398, § 5 . . R. L. 100, § 63.
" 398, § 6 . . R. L. 100, § 54.
" 399 . . . . R. 1898, 525, § 8.
" 400 . . . . R. L. 150, § 29.
" 401 . . . . R. L. 160, § 2.
" 402 . . . . R. L. 163, § 35; 173, § 4.
" 403 . . . . R. 1900, 400, § 1.
" 404 . . . . R. L. 167, § 124.
" 409 . . . . R. L. 208, § 32.
" 412, § 1 . . R. L. 225, § 47.
" 412, § 2 . . S. 1897, 480.
" 412, §§ 3–5 . R. L. 225, §§ 43, 49, 52.
" 416 . . . . S. 1898, 565.
" 418 . . . . S. 1898, 433, § 16.
" 419 . . . . R. L. 26, §§ 25–27.
" 422 . . . . R. L. 160, § 67.
" 423 . . . . R. L. 126, §§ 18, 19.
" 424, § 1 . . R. L. 151, §§ 24, 42.
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" 424, § 4 . . R. L. 151, § 22.
" 424, § 5 . . R. L. 151, § 32.
" 427 . . . . R. L. 163, § 97.
" 428, § 1 . . S. 1899, 330.
" 428, § 2 . . R. L. 75, §§ 12, 99, 100, 108; 102, § 72.
" 430 . . . . R. L. 107, § 1.
" 431 . . . . S. 1898, 488.
" 434 . . . . R. L. 225, §§ 29, 43, 44, 50–52, 54, 58.
" 437 . . . . R. L. 78, §§ 38–44.
" 438, § 1 . . R. L. 16, §§ 26, 37, 78.
" 438, § 2 . . T.
" 439 . . . . R. L. 35.
" 441 . . . . R. L. 79, §§ 2, 3, 18, 20. In part special.
" 443 . . . . R. L. 62, §§ 6, 13–17, 25–37, except
" 443, § 1 . . S. 1897, 517.
" 444 . . . . R. L. 29, except
" 444, § 19 . . S. 1901, 167.
" 447 . . . . R. L. 144; 149, § 1, cl. 4.
" 448, § 1 . . S. 1898, 359.
" 448, § 2 . . R. L. 16, § 12.
" 448, § 3 . . R. L. 16, § 35.
" 448, § 4 . . S. 1898, 84, § 1.
" 448, § 5 . . R. L. 16, § 78.
" 448, § 6 . . R. L. 16, § 66.
" 448, §§ 7, 9 . R. L. 16, §§ 76, 77.
" 448, § 8 . . S. 1899, 381, § 7.
" 448, §§ 10, 11, R. L. 16, §§ 83, 84.
" 448, § 12 . . R. L. 16, § 94.
" 448, § 13 . . R. L. 16, § 152; S. in part, 1898, 348, § 4.
" 448, § 14 . . R. L. 16, § 158.
" 448, §§ 15, 16, R. L. 16, §§ 62, 63.
" 452 . . . . S. 1900, 414.
" 454 . . . . R. L. 23, § 18.
" 460 . . . . R. L. 167, § 110.
" 461 . . . . R. L. 161, § 3.
" 462 . . . . R. L. 148, § 12.
" 463 . . . . R. L. 134, § 12.
" 466 . . . . R. L. 168, §§ 7, 14, 16, 78.
" 472 . . . . R. L. 158, § 3; 173, § 112.
" 474, § 1 . . R. L. 87, § 61.
" 474, § 2 . . S. 1899, 325, § 2.
" 475 . . . . R. 1898, 548, § 418.
" 478, § 1 . . R. L. 165, §§ 83, 85.
" 478, § 2 . . R. L. 165, §§ 84, 88.
" 480 . . . . R. L. 225, § 48.
" 482 . . . . R. 1898, 548, § 418.
" 486 . . . . Special, except
" 486, § 5 . . R. L. 96, § 12.
" 487 . . . . R. L. 100, §§ 53, 72.
" 490, § 1 . . R. L. 158, §§ 4, 6. T. in part.
" 490, § 2 . . Acted on.
" 490, § 3 . . R. L. 157, § 28; 219, § 22.
" 490, §§ 4–6 . R. L. 157, §§ 29–31.
" 490, § 7 . . R. L. 218, § 1.
" 490, § 8 . . T.
" 491 . . . . R. L. 106, § 71.
" 492, § 1 . . R. L. 110, § 52.
" 492, § 2 . . S. 1898, 64.
" 496, § 1 . . R. L. 36, § 22.
" 496, § 2 . . R. L. 36, § 26.
" 496, § 3 . . R. L. 36, § 43.
" 496, §§ 4–6 . Omitted.
" 496, § 7 . . R. L. 123, § 3.
" 496, § 8 . . R. L. 124, § 19.
" 498 . . . . R. L. 42, § 30.
" 499 . . . . R. 1899, 408, § 47.
" 503 . . . . R. 1898, 76, § 4.
" 505 . . . . R. L. 38, § 4.

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" 508, § 2 . . S. 1898, 384.
" 510 . . . . R. L. 75, §§ 4, 112–123, except
" 510, § 8 . . Acted on.
" 515, §§ 1–6 . R. L. 176, §§ 4–9.
" 515, § 7 . . R. L. 176, §§ 11, 17, 18, 20, 21, 23, 24.
" 515, §§ 8, 9 . R. L. 176, §§ 25, 26.
" 515, § 11 . . T.
" 517 . . . . R. L. 62, § 6.
" 522, § 1 . . S. 1898, 457.
" 522, §§ 2–5 . R. L. 182, §§ 7–10.
" 524 . . . . S. 1898, 339.
" 525 . . . . R. L. 173, §§ 92–94.
" 529 . . . . Acted on.
" 530 . . . . R. 1898, 548, § 418.
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" 53 . . . . R. L. 118, § 13.
" 54 . . . . R. L. 118, § 5.
" 56 . . . . T.
" 64 . . . . R. L. 110, § 52.
" 65, § 1 . . R. L. 147, § 20. Omitted in part.
" 65, § 2 . . R. L. 150, § 24.
" 67 . . . . R. L. 35, § 3.
" 69 . . . . R. L. 136, §§ 7, 8.
" 76 . . . . R. L. 6, §§ 46–48.
" 83 . . . . R. 1898, 548, § 418.
" 84 . . . . R. L. 16, §§ 78, 79.
" 104 . . . . R. L. 4, § 6.
" 117 . . . . R. L. 164, § 29.
" 121 . . . . R. L. 52, § 10.
" 124 . . . . R. L. 92, § 11.
" 125 . . . . R. L. 25, §§ 20, 21.
" 131 . . . . R. L. 164, § 9.
" 134 . . . . R. L. 48, § 97; 49, § 2.
" 138 . . . . R. L. 145, § 5.
" 146 . . . . R. L. 164, § 33.
" 148 . . . . R. L. 113, § 26, cls. 9, 10.
" 150 . . . . R. L. 106, §§ 56–58.
" 155 . . . . R. 1898, 548, § 418.
" 157 . . . . R. L. 82, § 14.
" 160 . . . . R. L. 32, § 7.
" 162 . . . . R. L. 32, § 37.
" 163 . . . . R. 1898, 548, § 418.
" 165 . . . . R. L. 32, § 43.
" 167 . . . . R. L. 105, § 3.
" 168 . . . . R. L. 213, § 10.
" 169 . . . . R. L. 91, § 126.
" 171 . . . . R. 1898, 548, § 418.
" 175 . . . . R. L. 9, § 7.
" 178 . . . . Acted on.
" 181 . . . . R. L. 92, § 17.
" 183 . . . . R. L. 16, § 151.
" 184 . . . . R. L. 113, § 26, cl. 3, a, b; 118, § 34, cl. 5.
" 187 . . . . R. L. 17, § 5.
" 190, § 1 . . R. L. 25, § 23.
" 190, § 2 . . Confirmatory.
" 191 . . . . R. 1898, 548, § 418.
" 192 . . . . R. L. 213, § 2.
" 193 . . . . R. L. 213, § 9.
" 195 . . . . R. 1900, 379, § 6.
" 196 . . . . S. 1899, 156.
" 199 . . . . R. L. 162, § 60.
" 200 . . . . R. L. 111, § 153.
" 201 . . . . R. L. 162, § 60.
" 204, § 1 . . R. L. 160, §§ 48, 54; 161, § 54; 204, § 18.
" 204, § 2 . . R. L. 24, § 13.
" 204, § 3 . . R. L. 204, § 2.
" 204, § 4 . . R. L. 221, § 4.
" 205 . . . . S. 1899, 360.

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" 208 . . . . R. L. 26, § 12.
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" 213, §§ 2, 3 . R. L. 87, §§ 69, 70.
" 213, § 5 . . R. L. 87, § 72.
" 213, § 6 . . Acted on.
" 214 . . . . Acted on.
" 216 . . . . R. L. 160, § 67.
" 217, §§ 1, 2 . R. 1898, 548, § 418.
" 217, § 3 . . R. L. 20, § 34.
" 218 . . . . R. 1901, 259.
" 219 . . . . R. L. 108, § 3.
" 230 . . . . R. L. 66, § 7.
" 234 . . . . R. L. 164, §§ 17, 27.
" 235 . . . . R. L. 7, § 13.
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" 240 . . . . S. 1898, 371.
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" 247, § 2 . . S. 1900, 214.
" 247, § 3 . . R. L. 114, § 10.
" 250 . . . . R. L. 160, § 2.
" 254 . . . . R. L. 160, §§ 64, 67.
" 256 . . . . R. L. 160, § 67.
" 259 . . . . R. L. 225, § 56.
" 261 . . . . R. L. 105, § 1; 108, §§ 1, 5.
" 264 . . . . R. L. 20, § 25.
" 265 . . . . R. L. 18, § 4.
" 266 . . . . R. L. 110, § 58.
" 267 . . . . R. L. 32, § 81.
" 277 . . . . R. L. 225, § 56.
" 280 . . . . R. L. 164, § 27.
" 286 . . . . R. L. 160, § 67.
" 287 . . . . Special, except
" 287, § 2 . . R. L. 160, § 67.
" 294 . . . . R. L. 21, § 2.
" 299 . . . . R. L. 1, § 4; S. in part, 1901, 469.
" 307 . . . . R. L. 225, § 28.
" 312 . . . . R. L. 165, § 40.
" 315 . . . . R. 1898, 496, § 36.
" 316 . . . . R. L. 20, § 14.
" 317 . . . . R. L. 21, §§ 1, 27, 28.
" 318 . . . . R. L. 24, §§ 1–3.
" 320 . . . . R. L. 9, § 7.
" 322 . . . . R. L. 21, § 2.
" 323 . . . . R. L. 21, § 2.
" 324 . . . . R. L. 23, § 18.
" 326 . . . . R. L. 220, §§ 37–40, 44, 45, except
" 326, § 2 . . S. 1901, 520.
" 326, § 8 . . Declaratory.
" 326, § 9 . . T.
" 328 . . . . R. L. 112, § 55.
" 330 . . . . R. L. 21, § 2.
" 331 . . . . R. L. 160, § 67.
" 332 . . . . R. L. 164, § 29.
" 333 . . . . R. L. 22, § 32.
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" 334, § 6 . . T.
" 336 . . . . R. L. 109, § 12.
" 339 . . . . R. L. 92, § 8.
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" 348, §§ 3, 4 . R. L. 16, §§ 150, 152.
" 348, § 5 . . S. 1900, 188, § 2.
" 350 . . . . T.
" 351 . . . . R. L. 48, § 86.
" 353 . . . . R. L. 12, § 9.
" 354 . . . . R. L. 81, § 20.
" 355 . . . . R. L. 157, § 24.
" 356 . . . . S. 1900, 189.
" 358 . . . . R. L. 160, § 67.
" 359 . . . . R. L. 16, § 12, except
" 359, § 5 . . T.
" 361 . . . . R. L. 100, § 45.
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" 365 . . . . R. L. 225, §§ 59–62.
" 366 . . . . R. L. 18, § 5.
" 367 . . . . R. L. 18, § 14; 20, § 26; 25, § 99; 26, § 22.
" 369 . . . . S. 1899, 154.
" 370 . . . . R. L. 12, § 5, cl. 13.
" 371 . . . . R. L. 225, §§ 115, 127, 128.
" 372 . . . . R. L. 160, § 67.
" 374 . . . . R. L. 175, § 11.
" 376 . . . . R. L. 165, § 35.
" 378 . . . . R. 1898, 548, § 418.
" 379 . . . . R. 1898, 548, § 418.
" 380, § 1 . . R. L. 118, § 56.
" 380, § 2 . . S. 1901, 59.
" 381 . . . . R. L. 161, § 4.
" 382 . . . . R. L. 160, § 67.
" 384 . . . . R. L. 165, § 41.
" 388 . . . . R. L. 160, § 67.
" 389, § 1 . . Special.
" 389, § 2 . . R. 1899, 256, § 3.
" 389, § 3 . . R. L. 29, § 29.
" 391 . . . . R. L. 85, § 15.
" 393 . . . . R. L. 225, §§ 63–68, 96.
" 394 . . . . R. L. 106, § 45.
" 396 . . . . R. L. 81, §§ 3, 4.
" 397 . . . . R. L. 168, § 4.
" 401 . . . . R. 1898, 548, § 418.
" 402 . . . . T.
" 404 . . . . R. L. 112, §§ 65–68.
" 407 . . . . R. L. 16, §§ 23, 30.
" 411 . . . . R. L. 217, §§ 56, 59, 60.
" 414 . . . . S. 1899, 301.
" 416 . . . . R. L. 153, § 10.
" 417 . . . . R. L. 14, §§ 37–44, 54–68.
" 420 . . . . R. L. 167, §§ 126, 127.
" 423 . . . . R. 1898, 548, § 418.
" 425, §§ 1, 2 . R. L. 80, §§ 1, 6.
" 425, §§ 3–5 . R. L. 81, §§ 10, 11, 21.
" 425, § 6 . . R. L. 81, § 44; 84, § 15; S. in part, 1898, 433, § 24.
" 428 . . . . T.
" 429 . . . . S. 1900, 384.
" 432 . . . . R. L. 21, § 36; 25, § 101.
" 433, §§ 1–8 . R. L. 87, §§ 1–5, 28, 36.
" 433, §§ 9, 10, 13 . . . R. L. 87, §§ 6–8.
" 433, § 11 . . R. L. 87, § 87; S. in part, 1900, 451, § 8.
" 433, § 12 . . R. L. 87, § 90.
" 433, § 14 . . R. L. 87, §§ 9, 51.
" 433, § 15 . . R. L. 87, § 84.
" 433, § 16 . . R. L. 87, § 58.
" 433, § 17 . . R. L. 87, § 38.
" 433, § 18 . . R. L. 87, § 10.
" 433, § 19 . . R. L. 87, § 37.
" 433, § 20 . . R. L. 87, § 11.
" 433, § 21 . . R. L. 87, § 92.
" 433, § 22 . . R. L. 87, § 12.
" 433, § 23 . . Acted on.
" 433, § 24 . . R. L. 84, § 4; 225, § 101. Acted on.
" 433, § 25 . . T.
" 433, § 26 . . R. L. 87, § 122.
" 433, § 27 . . Acted on.
" 433, § 28 . . R. L. 225, § 101; S. in part, 1900, 129. Acted on.
" 433, § 29 . . T.
" 435 . . . . R. 1898, 548, § 418.
" 436 . . . . R. L. 7, § 8.
" 437 . . . . R. L. 78, §§ 6, 9, 37–39.
" 438 . . . . R. L. 87, § 53.
" 443 . . . . R. L. 85, §§ 37–39; 225, §§ 113, 120.

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" 451 . . . . R. 1899, 408, § 47.
" 453 . . . . R. L. 35, § 13.
" 454 . . . . R. L. 19, § 25.
" 455 . . . . Special.
" 457 . . . . S. 1899, 444.
" 458 . . . . R. L. 149, § 7.
" 459 . . . . R. L. 89, § 4.
" 460 . . . . R. L. 160, § 67.
" 465 . . . . R. L. 163, § 106.
" 466, § 1 . . R. L. 42, § 43; S. in part, 1900, 248, § 2.
" 466, §§ 2–4 . R. L. 42, §§ 43–46.
" 466, § 5 . . R. L. 42, § 39.
" 466, §§ 6–8 . R. L. 42, §§ 47, 48.
" 466, § 9 . . S. 1900, 248, § 2.
" 472 . . . . R. 1898, 548, § 418.
" 474 . . . . S. 1899, 442.
" 476 . . . . R. L. 47, § 5.
" 477 . . . . R. L. 21, § 46; S. in part, 1900, 137.
" 478 . . . . Special, except
" 478, § 2 . . R. L. 160, § 67.
" 479 . . . . R. L. 77.
" 480 . . . . R. L. 196, § 41.
" 481 . . . . S. 1899, 247.
" 483 . . . . R. L. 83, § 15.
" 485 . . . . R. L. 71, § 6.
" 486 . . . . R. L. 108, § 36.
" 487 . . . . R. L. 152, §§ 8, 9.
" 488 . . . . R. L. 160, § 39; 177, §§ 2, 3.
" 489 . . . . R. L. 177, § 14.
" 490 . . . . R. L. 25, § 100.
" 493 . . . . Special.
" 494 . . . . R. L. 106, §§ 28–35.
" 496, § 1 . . S. 1900, 218.
" 496, §§ 2, 4–6, R. L. 42, §§ 2, 9, 11, 12, 27.
" 496, § 3 . . R. L. 25, § 15; 42, § 3.
" 496, §§ 7–12, 31 . . . R. L. 44.
" 496, § 13 . . R. L. 39, § 6.
" 496, §§ 14, 15, 18–21 . . R. L. 43.
" 496, § 16 . . S. 1901, 289.
" 496, § 17 . . S. 1900, 175.
" 496, §§ 22–30, 32–34 . . R. L. 46.
" 496, § 35 . . S. 1898, 580, § 2; 1900, 397.
" 497 . . . . Special, except
" 497, § 3 . . R. L. 160, § 67.
" 498 . . . . R. L. 96, § 18.
" 499 . . . . R. L. 121, §§ 1, 2.
" 500 . . . . R. L. 208, § 115.
" 502 . . . . R. L. 109, § 56.
" 503, § 1 . . R. L. 110, § 57.
" 503, § 2 . . R. L. 109, § 18.
" 504 . . . . R. L. 125, § 9.
" 505 . . . . R. L. 106, § 69.
" 507, § 1 . . R. L. 12, § 44.
" 507, § 2 . . R. L. 12, §§ 58, 59.
" 507, § 3 . . R. L. 14, §§ 2, 5.
" 510 . . . . R. 1899, 354, § 6.
" 511, § 1 . . R. L. 217, §§ 81, 83, 84.
" 511, § 2 . . R. L. 217, §§ 92, 93.
" 511, § 3 . . R. L. 217, § 91.
" 514 . . . . R. L. 134, § 16.
" 515 . . . . R. L. 102, § 44.
" 518 . . . . R. L. 165, § 35.
" 519 . . . . R. L. 2, § 2.
" 520 . . . . T.
" 521 . . . . R. L. 6, § 14; S. in part, 1899, 151.
" 525 . . . . T. and special.
" 526 . . . . R. L. 27, § 10.
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" 527, § 2 . . R. L. 145, § 41.
" 528 . . . . S. 1900, 474.
" 533 . . . . R. L. 73, §§ 18–212, except
" 533, § 85 . . R. L. 73, § 102; S. in part, 1899, 130.
" 535 . . . . R. L. 175, § 66.
" 537 . . . . R. L. 14, § 31; 118, §§ 20, 78, 84.
" 538 . . . . R. L. 111, § 155.
" 539 . . . . T.
" 544 . . . . Special, except
" 544, § 3 . . R. L. 208, § 108.
" 545 . . . . R. L. 198, § 13.
" 548 . . . . As amended, R. L. 11, §§ 1–421; 100, § 17.
" 549 . . . . R. L. 168, §§ 68, 80–86, except
" 549, § 1 . . S. 1899, 445, § 1.
" 555 . . . . S. 1901, 246.
" 559 . . . . R. L. 168, §§ 68, 71, 72.
" 561, §§ 1, 2, 8, 9 . . . . T.
" 561, §§ 3–7 . R. 1899, 374, § 9.
" 561, § 11 . . R. L. 79, § 3.
" 562 . . . . R. L. 128, except
" 562, § 1 . . Omitted as superfluous.
" 562, §§ 2, 14, 15, 20, 24, 33, 39, 57 . S. 1899, 131.
" 562, § 3 . . S. in part, 1900, 354, § 1.
" 562, §§ 13, 19, 27, 32, 58 . S. 1900, 354.
" 562, § 102 . S. 1899, 125.
" 562, § 111 . R. L. 208, § 25.
" 562, § 112 . R. L. 210, § 1.
" 562, §§ 113, 114, R. L. 209, §§ 1, 2.
" 565 . . . . R. L. 171, § 2.
" 567 . . . . R. L. 113, §§ 21–24.
" 570 . . . . T.
" 571 . . . . R. L. 118, § 57.
" 572 . . . . R. L. 96, § 1.
" 574, § 1 . . R. L. 17, §§ 5, 7.
" 574, § 2 . . R. L. 18, § 9.
" 576 . . . . R. L. 214, § 29.
" 577, §§ 1–10 . R. L. 102, §§ 57–66.
" 577, § 11 . . R. L. 102, §§ 46, 67.
" 578, § 1 . . R. L. 111, § 1; 112, § 1.
" 578, § 2 . . R. L. 14, § 37.
" 578, § 3 . . R. L. 14, § 41.
" 578, §§ 4, 5 . R. L. 14, §§ 61, 62.
" 578, §§ 6–10 . R. L. 14, §§ 43–47.
" 578, § 11 . . R. L. 112, § 44.
" 578, § 12 . . R. L. 112, § 41.
" 578, § 13 . . R. L. 112, § 7.
" 578, § 14 . . R. L. 112, § 11.
" 578, §§ 15–17, R. L. 112, §§ 30–32.
" 578, § 18 . . R. L. 112, § 71.
" 578, §§ 19–21, R. L. 112, §§ 33–35.
" 578, § 22 . . R. L. 112, § 21.
" 578, § 23 . . R. 1901, 180.
" 578, § 24 . . R. L. 112, § 61.
" 578, § 25 . . R. L. 112, §§ 98, 100.
" 578, § 26 . . R. L. 14, § 61.
" 578, § 27 . . R. L. 112, § 8.
" 578, § 28 . . R. L. 112, § 1.
" 580, § 1 . . R. L. 46, § 8.
" 580, § 2 . . S. 1900, 397.
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" 75 . . . . T.
" 81 . . . . R. L. 142, § 8.
" 85 . . . . R. L. 48, § 105.
" 90 . . . . R. L. 150, § 25.
" 91 . . . . R. L. 204, § 6.

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" 103 . . . . R. L. 91, § 9.
" 107 . . . . R. L. 91, § 20.
" 108 . . . . R. L. 21, § 22.
" 110 . . . . R. L. 160, § 69.
" 111 . . . . S. 1900, 187.
" 115 . . . . R. L. 107, § 1.
" 116 . . . . R. L. 92, § 1.
" 120 . . . . R. L. 181, § 1.
" 123 . . . . R. L. 175, §§ 43, 69.
" 125 . . . . R. L. 128, § 101.
" 129 . . . . S. 1899, 170.
" 130 . . . . R. L. 73, § 102.
" 131, § 1 . . R. L. 128, § 1; S. in part, 1900, 354, § 1.
" 131, §§ 2–8 . R. L. 128, §§ 13, 14, 19, 23, 32, 38, 56.
" 139 . . . . R. L. 104, §§ 4–8.
" 140 . . . . R. L. 157, § 24.
" 143 . . . . R. L. 75, § 141.
" 146 . . . . R. L. 11, § 140.
" 147 . . . . R. L. 146, §§ 4, 9.
" 148 . . . . R. L. 11, § 60.
" 151 . . . . R. L. 6, § 14.
" 153 . . . . R. L. 21, § 3.
" 154 . . . . R. L. 160, § 67.
" 156 . . . . R. L. 87, § 81; S. in part, 1900, 333.
" 158 . . . . R. L. 86, § 46.
" 164 . . . . R. L. 109, § 9.
" 166 . . . . R. L. 217, § 2.
" 169 . . . . R. L. 56, § 63.
" 170 . . . . R. L. 26, § 7.
" 171 . . . . R. L. 25, § 15.
" 178, § 1 . . R. L. 5, § 8.
" 178, § 2 . . R. L. 145, § 3.
" 178, § 3 . . R. L. 161, § 2.
" 178, § 4 . . R. L. 163, § 41.
" 178, §§ 5, 6 . R. L. 194, §§ 2, 13.
" 178, §§ 7, 8 . R. L. 210, §§ 33, 34.
" 178, § 9 . . R. L. 17, § 5.
" 184 . . . . R. L. 75, § 70.
" 190 . . . . R. L. 11, § 124.
" 191 . . . . R. L. 164, §§ 17, 27, 28.
" 192 . . . . R. L. 10, § 27.
" 193 . . . . R. L. 86, § 49; S. in part, 1900, 333.
" 196, § 1 . . R. L. 208, § 81.
" 196, §§ 2–4 . R. L. 108, § 10.
" 197 . . . . R. L. 151, § 20.
" 198 . . . . R. L. 87, § 57.
" 199 . . . . R. L. 110, §§ 5, 31.
" 201 . . . . R. L. 46, § 9.
" 203 . . . . R. L. 225, § 21.
" 204, § 1 . . Special.
" 204, § 2 . . R. L. 160, § 67.
" 207 . . . . R. L. 24, § 12.
" 209 . . . . S. 1901, 89.
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" 211, §§ 4, 5 . R. L. 87, §§ 71, 73.
" 215 . . . . R. L. 113, § 26, cl. 4, f.
" 217 . . . . R. L. 160, § 67.
" 218 . . . . R. L. 204, § 16.
" 220 . . . . R. L. 11, § 196; S. in part, 1900, 231.
" 223 . . . . R. L. 56, § 56.
" 226 . . . . R. L. 225, § 124.
" 229, §§ 1–3 . T. and acted on.
" 229, §§ 4, 5 . R. L. 118, § 11, cl. 4, § 65.
" 229, §§ 6, 7 . Acted on.
" 234 . . . . R. L. 160, § 67.
" 235 . . . . R. L. 64, § 1.
" 238 . . . . R. L. 212, § 88.
" 242 . . . . R. L. 102, § 95.

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" 245, §§ 1, 4 . R. L. 223, §§ 3, 4.
" 245, §§ 2, 3 . R. L. 223, §§ 11, 19.
" 246 . . . . R. L. 42, § 15.
" 247 . . . . R. L. 106, §§ 62, 63.
" 248 . . . . R. 1899, 462, § 4.
" 252 . . . . R. L. 111, § 262.
" 253 . . . . R. L. 28, § 1.
" 254 . . . . S. 1901, 153.
" 255 . . . . R. L. 160, § 2.
" 256, § 1 . . R. L. 26, § 4.
" 256, § 2 . . R. L. 25, § 28.
" 259 . . . . S. 1901, 179.
" 260 . . . . R. L. 65, §§ 15, 16.
" 261 . . . . R. L. 102, § 68.
" 262 . . . . R. L. 82, § 5.
" 263, § 1 . . R. L. 225, § 94.
" 263, § 2 . . R. L. 225, §§ 104, 122.
" 263, § 3 . . R. L. 225, §§ 105, 106.
" 264 . . . . R. L. 164, § 27.
" 266, § 1 . . R. L. 87, §§ 59, 65.
" 266, § 2 . . R. L. 87, § 62.
" 266, § 3 . . R. L. 87, § 96.
" 269 . . . . R. L. 113, § 26, cl. 4, c, d, e.
" 271 . . . . R. L. 157, § 24.
" 276 . . . . R. L. 83, § 17.
" 278 . . . . R. L. 149, § 18.
" 284 . . . . R. L. 153, §§ 19, 20.
" 286 . . . . R. L. 111, § 169.
" 297 . . . . R. L. 160, § 67.
" 299 . . . . R. L. 125, §§ 20–22.
" 301 . . . . R. L. 137, § 11.
" 302, § 1 . . R. L. 16, § 78.
" 302, § 2 . . T.
" 308 . . . . R. L. 75, § 114. In part special.
" 309 . . . . R. L. 9, § 7; S. in part, 1901, 364.
" 310 . . . . R. L. 158, §§ 10, 11.
" 311 . . . . R. L. 137, § 12.
" 313 . . . . R. L. 160, §§ 55, 57.
" 314 . . . . R. L. 160, § 67.
" 315 . . . . R. L. 160, § 67.
" 316 . . . . R. L. 208, §§ 26, 28.
" 319 . . . . R. L. 49, §§ 31, 33, 34, except
" 319, § 2 . . S. 1900, 112.
" 320 . . . . R. L. 122, § 17.
" 323 . . . . R. L. 11, § 225.
" 325 . . . . R. L. 87, §§ 60, 96.
" 326 . . . . R. L. 104, § 52.
" 329, §§ 1–3 . R. L. 11, §§ 84, 96, 98.
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" 330, § 3 . . R. L. 53, § 13.
" 330, § 4 . . R. L. 25, § 16.
" 330, §§ 5–8 . R. L. 208, §§ 102, 104.
" 333 . . . . R. L. 204, §§ 2–6.
" 336 . . . . R. L. 9, § 2.
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" 339 . . . . R. L. 160, § 67.
" 340 . . . . R. L. 56, § 48.
" 341 . . . . R. 1899, 462, § 4.
" 344, § 1 . . R. L. 106, § 20.
" 344, § 2 . . S. 1900, 357.
" 345 . . . . R. L. 164, §§ 5–7.
" 346, §§ 1, 3 . R. L. 11, §§ 81, 102.
" 346, § 2 . . S. 1901, 117.
" 348 . . . . R. L. 116, §§ 1, 18–22, 24, 37
" 350 . . . . R. L. 165, § 38.
" 352 . . . . R. L. 173, § 38.
" 353 . . . . R. L. 160, § 67.
" 354 . . . . R. L. 35, §§ 7–10.
" 357 . . . . R. L. 165, § 19; 173, § 96.

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" 359, §§ 3–5 . R. L. 72, §§ 10, 11, 13.
" 359, § 6 . . R. L. 72, § 14.
" 359, § 7 . . T.
" 359, § 8 . . R. L. 217, §§ 1, 7.
" 360 . . . . R. L. 91, § 137; 92, § 20; S. in part, 1900, 428, § 2.
" 361 . . . . R. L. 11, §§ 15, 20.
" 364, § 1 . . R. L. 118, § 61.
" 364, § 2 . . T.
" 365 . . . . R. 1901, 499.
" 368 . . . . R. L. 102, §§ 78–86, except
" 368, § 4 . . S. 1900, 201.
" 372, § 1 . . R. L. 79, §§ 1, 2, 3, 9.
" 372, § 2 . . R. L. 79, §§ 3, 9.
" 372, §§ 3–6 . R. L. 79, §§ 9, 10.
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" 372, § 8 . . R. L. 79, §§ 11, 13–17.
" 372, §§ 9–12 . R. L. 79, §§ 14–16.
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" 374, §§ 7, 8 . R. L. 79, §§ 14, 16.
" 374, § 9 . . T. and acted on.
" 376 . . . . R. L. 192, § 12.
" 377 . . . . R. L. 165, §§ 6, 35.
" 379, § 1 . . S. 1900, 437.
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" 381 . . . . R. L. 16, §§ 53–61.
" 383 . . . . R. L. 204, § 17.
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" 387, § 4 . . R. L. 5, § 9.
" 389 . . . . R. L. 210, § 29.
" 391 . . . . R. L. 160, §§ 2, 67, except so far as special.
" 394, §§ 1, 2 . R. L. 13, § 19.
" 394, §§ 3, 4 . R. L. 13, § 19; 25, § 80.
" 408 . . . . R. L. 90, except
" 408, § 3 . . In part, R. L. 9, § 7.
" 408, § 8 . . S. 1901, 252.
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" 408, § 20 . . R. L. 56, §§ 70, 71.
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" 408, § 45 . . T.
" 409, §§ 1, 2 . R. L. 218, § 67.
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" 409, § 9 . . R. L. 218, §§ 29, 33.
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" 413 . . . . R. L. 100, § 61.
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" 423 . . . . R. L. 164, § 34.
" 425, § 1 . . R. L. 13, §§ 1, 37.
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" 436 . . . . R. L. 208, § 103.
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" 445, § 2 . . R. L. 168, § 68.
" 453 . . . . R. L. 110, § 76.
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" 459 . . . . R. L. 6, § [illegible].
" 462 . . . . R. L. 100, § 13.
" 463 . . . . T.
" 465, § 1 . . S. 1900, 459, § 2.
" 465, § 2 . . R. L. 58, § 5.
" 467 . . . . R. L. 116, § 3.
" 468 . . . . R. L. 106, § 18.
" 470 . . . . R. L. 7, § 13.
" 471 . . . . T.
" 472 . . . . R. L. 120, § 17.
" 474 . . . . R. L. 48, § 87.
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" 92 . . . . S. 1900, 183, § 2; 1901, 296, § 1.
" 102 . . . . S. 1901, 283.
" 106 . . . . R. L. 100, § 22.
" 112 . . . . R. L. 49, § 32.
" 116 . . . . R. L. 21, § 48.
" 117, § 1 . . R. L. 6, § 59.
" 117, § 2 . . T.
" 119 . . . . R. L. 20, § 27.
" 120 . . . . R. L. 11, § 85.
" 127 . . . . R. L. 37, § 11.
" 128 . . . . R. L. 92, § 23.
" 129 . . . . R. L. 82, § 2.
" 137 . . . . R. L. 21, § 46.
" 138, § 1 . . Special.
" 138, § 2 . . R. L. 160, § 67.
" 144 . . . . R. L. 164, §§ 17, 27, 29.
" 147 . . . . R. L. 150, § 12.
" 154 . . . . R. L. 111, § 226.
" 157 . . . . R. L. 65, § 15.
" 159 . . . . R. L. 91, §§ 48, 79.
" 162 . . . . S. 1901, 274.
" 166 . . . . R. L. 42, § 14.
" 168 . . . . R. L. 12, § 72.
" 174 . . . . T.
" 175 . . . . R. L. 43, § 4.
" 177 . . . . R. L. 13, § 75.
" 179 . . . . R. L. 160, § 66.
" 180 . . . . R. L. 164, § 12.
" 183 . . . . S. 1901, 296.
" 185 . . . . S. 1901, 422, § 18.
" 187 . . . . R. L. 43, § 1.
" 188, §§ 1–3 . R. L. 16, §§ 26–28, 30, 31, 65.
" 188, § 4 . . R. L. 16, § 150.
" 188, § 5 . . R. L. 16, § 70.
" 188, § 6 . . R. L. 16, § 65.
" 189 . . . . R. L. 79, § 19.
" 191 . . . . R. L. 189, § 27.
" 192 . . . . R. L. 88, § 1.
" 197, §§ 1–3 . R. L. 112, § 72.
" 197, § 4 . . R. L. 112, § 1.
" 198 . . . . Acted on.
" 201 . . . . R. L. 102, § 82.
" 209 . . . . R. L. 92, § 13.
" 213 . . . . R. L. 25, §§ 87, 88.
" 214 . . . . R. L. 114, § 26.
" 215 . . . . R. L. 84, § 5.
" 217 . . . . R. L. 6, § 14.
" 218 . . . . R. L. 42, § 1.
" 219 . . . . R. L. 39, § 12.
" 220 . . . . R. L. 26, § 21.
" 223 . . . . R. L. 111, § 214.
" 225 . . . . R. L. 9, § 7.
" 229 . . . . R. L. 160, § 67.
" 230 . . . . R. L. 91, § 92.
" 231 . . . . R. L. 11, §§ 150, 196.
" 232 . . . . R. L. 145, § 19.

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" 241 . . . . S. 1901, 441.
" 245 . . . . R. L. 11, § 109.
" 246 . . . . R. L. 32, § 82.
" 248 . . . . R. L. 42, §§ 40, 43.
" 249 . . . . R. L. 114, §§ 8, 27.
" 253 . . . . R. L. 47, §§ 13, 14.
" 254 . . . . R. L. 83, §§ 26–28.
" 256 . . . . R. L. 197, § 1.
" 257 . . . . R. L. 116, § 28.
" 260 . . . . R. L. 225, §§ 18–22.
" 261 . . . . R. L. 110, § 1.
" 265 . . . . R. L. 160, § 67.
" 266 . . . . R. L. 6, § 35.
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" 268 . . . . R. L. 160, § 67.
" 269 . . . . R. L. 225, §§ 29, 43–45, 50–52, 54.
" 273 . . . . R. L. 114, § 25.
" 279 . . . . R. L. 217, § 93.
" 280 . . . . R. L. 126, §§ 6, 20.
" 281 . . . . R. L. 160, § 14.
" 282 . . . . R. L. 106, § 15.
" 284 . . . . R. L. 91, § 5.
" 286 . . . . R. L. 223, §§ 3, 4, 11, 19.
" 290 . . . . R. L. 13, § 1.
" 294 . . . . R. L. 76, §§ 26, 28, 29.
" 295 . . . . R. L. 23, § 18.
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" 297, § 2 . . T.
" 298 . . . . R. L. 111, § 232.
" 299 . . . . R. L. 48, § 109.
" 300 . . . . R. L. 56, §§ 55, 57.
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" 317 . . . . R. L. 76, §§ 18, 23.
" 318 . . . . R. L. 111, § 229.
" 319 . . . . R. L. 162, § 60.
" 325 . . . . S. 1901, 188.
" 326 . . . . R. L. 160, § 67.
" 327, § 1 . . S. 1901, 383.
" 327, § 2 . . R. L. 22, § 17.
" 328 . . . . R. L. 164, § 27.
" 329 . . . . R. L. 165, § 35.
" 330 . . . . R. L. 160, § 67.
" 331 . . . . R. L. 160, § 67.
" 332 . . . . R. L. 160, § 67.
" 333 . . . . Acted on.
" 334 . . . . R. L. 52, §§ 14, 15.
" 335, § 1 . . R. L. 104, §§ 25, 37.
" 339 . . . . S. 1901, 327.
" 344 . . . . R. L. 91, § 12.
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" 345, §§ 2, 3, 5, R. L. 145, §§ 20, 21.
" 345, § 4 . . R. L. 149, § 1, cl. 5.
" 347 . . . . R. L. 164, § 27.
" 350 . . . . R. L. 87, §§ 34, 59.
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" 353 . . . . R. L. 16, § 12.
" 354, § 1 . . Acted on.
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" 359 . . . . R. L. 72, §§ 19–23, except
" 359, § 3 . . R. L. 208, § 118, in part.
" 360 . . . . T.
" 363 . . . . R. L. 118, §§ 11, 75, 76.
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" 381 . . . . R. L. 112, §§ 12–14.
" 383 . . . . R. L. 5, § 2.
" 384 . . . . R. L. 160, § 67.
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" 385, § 2 . . R. L. 157, § 35.
" 386 . . . . R. L. 9, § 7.
" 395 . . . . R. L. 111, § 227.
" 397 . . . . R. L. 83, §§ 36–39.
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" 399 . . . . R. L. 12, § 54; S. in part, 1901, 264.
" 400 . . . . R. L. 160, §§ 2, 67, except so far as special.
" 404 . . . . R. L. 47, § 10.
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" 408 . . . . R. L. 164, § 27.
" 409 . . . . R. L. 125, § 11; 214, § 30.
" 413 . . . . Special, except
" 413, § 5 . . R. L. 14, § 62.
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" 419 . . . . R. L. 160, § 67.
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" 432, § 1 . . R. L. 47, § 16.
" 432, § 2 . . S. 1901, 433.
" 433 . . . . R. L. 160, §§ 63, 65.
" 437 . . . . R. L. 25, § 47.
" 440 . . . . R. L. 98, § 3.
" 446 . . . . R. L. 106, §§ 74, 75.
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" 459 . . . . R. L. 58, §§ 1–7.
" 463 . . . . R. L. 111, § 153.
" 466 . . . . Acted on.
" 469 . . . . R. L. 106, § 13.
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" 474 . . . . R. L. 47, § 1.
" 475 . . . . R. L. 47, §§ 7–9.
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" 54 . . . . R. L. 111, § 9.
" 58 . . . . R. L. 124, § 10.
" 59 . . . . R. L. 118, § 83.
" 61 . . . . R. L. 162, § 56; 163, § 7.
" 70 . . . . R. L. 157, § 24.
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" 114 . . . . R. L. 9, § 7.
" 116 . . . . R. L. 11, § 213.
" 117 . . . . R. L. 11, §§ 87, 140.
" 120 . . . . R. L. 102, § 137.
" 121 . . . . R. L. 91, § 64.
" 123 . . . . R. L. 114, § 6.
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" 152 . . . . R. L. 25, § 13.
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" 164 . . . . R. L. 106, § 44.
" 166 . . . . R. L. 104, §§ 44–46.
" 167 . . . . R. L. 29, § 18.
" 171 . . . . R. L. 75, § 40.
" 173 . . . . R. L. 24, § 2.
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" 177 . . . . R. L. 30, § 17; 81, § 39.
" 178 . . . . R. L. 92, § 5.
" 179 . . . . R. L. 84, § 14.
" 180 . . . . R. L. 112, § 73.
" 185 . . . . R. L. 85, § 40.
" 186 . . . . R. L. 100, §§ 1, 54.
" 188 . . . . R. L. 213, § 8.
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" 192 . . . . R. L. 52, § 7.
" 193 . . . . R. L. 91, § 86.
" 197 . . . . R. L. 13, § 43.
" 200 . . . . Acted on.
" 202 . . . . R. L. 56, §§ 65–69.
" 210 . . . . R. L. 9, § 10.
" 211 . . . . R. L. 6, § 4; 62, § 10.
" 213 . . . . S. 1901, 523.
" 215 . . . . R. L. 217, § 66.
" 222 . . . . R. L. 14, § 56.
" 224 . . . . R. L. 223, §§ 6, 24.
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" 250 . . . . Acted on.
" 252 . . . . R. L. 90, § 6.
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" 255 . . . . R. L. 116, § 34.
" 257 . . . . R. L. 9, § 7.
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" 262 . . . . R. L. 39, § 4.
" 263 . . . . R. L. 9, § 7.
" 264 . . . . Acted on. See R. L. 12, § 54.

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" 268 . . . . R. L. 208, §§ 78, 80, 82, 83–88, 90, 92, 93.
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" 275 . . . . S. 1901, 422, § 11.
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" 283 . . . . R. L. 79, § 20.
" 286 . . . . R. L. 111, § 25; 175, §§ 10, 11.
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" 290 . . . . R. L. 91, § 119.
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" 294 . . . . R. L. 25, § 50.
" 295 . . . . R. L. 160, § 67.
" 296 . . . . R. L. 118, §§ 29, 31.
" 297 . . . . R. L. 15, § 1.
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" 302 . . . . R. L. 164, § 29.
" 303, §§ 1, 2, 4, R. L. 87, §§ 127–129.
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" 313 . . . . R. L. 25, §§ 35–38.
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" 321 . . . . R. L. 56, § 56.
" 322 . . . . R. L. 173, § 93.
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" 329 . . . . R. L. 165, § 88.
" 332 . . . . R. L. 26, § 15.
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" 340 . . . . R. L. 225, § 80.
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" 366 . . . . R. L. 165, § 54.
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" 369 . . . . R. L. 164, § 35.
" 370 . . . . R. L. 106, §§ 66–68.
" 371 . . . . R. L. 209, §§ 1–3.
" 372 . . . . R. L. 160, § 67.
" 373 . . . . R. L. 213, § 3.
" 377 . . . . R. L. 108, § 31.
" 383 . . . . R. L. 22, § 13.
" 388 . . . . R. L. 21, § 3.
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" 408 . . . . R. L. 13, § 26.
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" 414 . . . . R. L. 112, § 38.
" 415 . . . . R. L. 160, § 67.
" 416 . . . . R. L. 47, § 19.
" 418 . . . . R. L. 160, § 67.
" 422 . . . . R. L. 119, except
" 422, § 9 . . R. L. 109, § 9.
" 422, § 11 . . S. in part, 1901, 487.
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" 423 . . . . R. L. 57, §§ 84, 87–92.
" 424, § 1 . . R. L. 12, § 1.
" 424, § 2 . . Acted on.

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" 439 . . . . R. L. 104, § 27.
" 441 . . . . R. L. 11, § 23.
" 449 . . . . R. L. 14, § 2.
" 452 . . . . R. L. 112, § 48.
" 457 . . . . R. L. 160, § 67.
" 459 . . . . R. L. 99, §§ 4, 6.
" 461 . . . . Acted on.
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" 478 . . . . R. L. 56, § 1.

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" 510 . . . . R. L. 165, § 35.
" 511 . . . . R. L. 11, § 422.
" 512 . . . . R. L. 19, § 34.
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" 520 . . . . R. L. 220, § 38.
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" 523 . . . . R. L. 145, § 20.
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ANALYSIS

OF THE

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OF THE

UNITED STATES OF AMERICA.

PREAMBLE.

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Preamble.

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I.

Legislative powers, in whom vested.

SECT. 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

House of representatives, how and by whom chosen.

SECT. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

Qualifications of a representative.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes, how apportioned.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

Census.

The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

U. S. Sts., 1891, 16; 1899, 154; 1901, 93.

The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

Vacancies to be filled.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Power of choosing officers, and of impeachment.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Senators, how and by whom chosen.

SECT. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

How classified.

State executive to make temporary appointments, in case, etc.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Qualifications of a senator.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

President of the senate, his right to vote.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

President *pro tem.* and other officers of senate, how chosen.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Power to try impeachments.

When president is tried, chief justice to preside.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sentence.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

Times, etc., of holding elections, how prescribed. U. S. Rev. Sts., §§ 14–19.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

One session in each year.

SECT. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Membership.

Quorum.

Adjournments.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Rules. Power to punish or expel.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Time of adjournment limited, unless, etc.

Compensation.

SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Privileges.

Disqualification in certain cases.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

House to originate all revenue bills. 126 Mass. 557, 593.

SECT. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Veto.

Bill may be passed by two-thirds of each house, notwithstanding, etc.

Bill not returned in ten days.

Provision as to all orders, etc., except, etc.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Powers of congress. 4 Gray, 559. 10 Allen, 200. 101 Mass. 303. 162 Mass. 113.

SECT. 8. The congress shall have power — to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; — to borrow money on the credit of the United States; — to regulate commerce with foreign nations, and among the several states, and with the Indian tribes; — to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; — to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures; — to provide for the punishment of counterfeiting the securities and current coin of the United States; — to establish post offices and post roads; — to promote the progress of

129 Mass. 580. 130 Mass. 1. 143 Mass. 264. 144 Mass. 523. 156 Mass. 236. 160 Mass. 62. 164 Mass. 338. 139 U. S. 240. 155 U. S. 461.

science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries; — to constitute tribunals inferior to the supreme court; — to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; — to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; — to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; — to provide and maintain a navy; — to make rules for the government and regulation of the land and naval forces; — to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; — to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress; — to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; — and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

14 Gray, 614.

106 Mass. 356.

Sect. 9. The migration or importation of such persons, as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Provision as to migration or importation of certain persons.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Habeas corpus.

No bill of attainder or *ex post facto* law shall be passed.

Bills of attainder, etc.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Taxes, how apportioned.

No tax or duty shall be laid on articles exported from any state.

No export duty.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No commercial preferences.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No money drawn from treasury, unless, etc.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state.

No titular nobility. Officers not to receive presents, unless, etc.

States prohibited from the exercise of certain powers.
7 Cush. 53.
12 Allen, 421, 424, 428.
103 Mass. 267.
115 Mass. 153.
151 Mass. 364.
160 Mass. 62.
172 Mass. 264.
173 Mass. 322.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

President and vice-president, their term of office.

SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected, as follows: —

Electors of president and vice-president, number, and how appointed.

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Amendment XII. a substitute for this paragraph.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States. Electors to vote on same day.

U. S. Rev. Sts., § 131. U. S. Sts., 1887, 90. 146 U. S. 1.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. Qualifications of president.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected. On whom his duties devolve in case of his removal, death, etc. U. S. Sts., 1886, 4.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them. President's compensation.

Before he enter on the execution of his office, he shall take the following oath or affirmation: —

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States." His oath.

SECT. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment. President to be commander-in-chief. He may require opinion of, etc., and may pardon. 109 Mass. 333.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments. Treaty-making power. Nomination of certain officers.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session. When president may fill vacancies.

SECT. 3. He shall from time to time give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to President shall communicate to congress. He may convene and adjourn congress, in case, etc.

the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Shall receive ambassadors; execute laws, and commission officers.

All civil offices forfeited for certain crimes.

SECT. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Judicial power.

SECT. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Tenure.

Compensation.

Judicial power, to what cases it extends.
130 Mass. 431.
152 Mass. 230.
173 Mass. 322.
139 U. S. 240.

SECT. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers, and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more states; — between a state and citizens of another state; — between citizens of different states; — between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

See amendment XI.

Original jurisdiction of supreme court. Appellate.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

Trial by jury, except, etc. Trial, where.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Treason defined.

SECT. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Proof of.

Punishment of.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

Credit to public acts, etc., of every state.
99 Mass. 267.
116 Mass. 170.
117 Mass. 107.
122 Mass. 156.
126 Mass. 26.

SECT. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof. 142 Mass. 47. 149 Mass. 223. 133 U. S. 107.

SECT. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. Privileges of citizens of each state.

3 Gray, 276. 152 Mass. 230 173 Mass. 322.
11 Allen, 268. 157 Mass. 373. 174 Mass. 29.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime. Fugitives from justice to be delivered up. 112 Mass. 409. 158 Mass. 149.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due. Persons held to service, having escaped, to be delivered up.

SECT. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the congress. Admission of new states.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state. Power of congress over territory and other property.

SECT. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence. Republican form of government guaranteed. Each state to be protected.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate. Constitution, how amended. Proviso.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation. Certain debts, etc., adopted.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding. Supremacy of constitution, treaties and laws of the United States.

Oath to support constitution, by whom taken.

No religious test.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

What ratification shall establish constitution.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

ARTICLES

IN ADDITION TO, AND AMENDMENT OF,

The constitution of the United States of America, proposed by congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.

Religious establishment prohibited. Freedom of speech; of the press, and right to petition.

ART. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Right to keep and bear arms.

ART. II. A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

No soldier to be quartered in any house, unless, etc.

ART. III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Right of search and seizure regulated.

ART. IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Provisions concerning prosecutions, trials and punishments.
12 Pick. 496.
8 Gray, 329.
1 Allen, 150.
13 Allen, 554.
105 Mass. 189.
180 U. S. 311.
Private property not to be taken for public use, without, etc.

ART. V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Further provisions respecting criminal prosecutions.
108 Mass. 5.
173 Mass. 322.

ART. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ART. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law. Right of trial by jury secured. 5 Gray, 144.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Bail, fines, and punishments.

5 Gray, 482. 173 Mass. 322. 180 U. S. 311.

ART. IX. The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. Rule of construction.

ART. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people. Same subject.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state. Same subject.

ART. XII. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; — the president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted; — the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. Manner of choosing president and vice-president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. Same subject.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States. Same subject.

Slavery abolished.

ART. XIII. SECT. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Appropriate legislation.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

Who are citizens of United States. Privileges of citizens not to be abridged. 144 Mass. 10. 147 Mass. 536. 156 Mass. 57. 158 Mass. 509, 598. 159 Mass. 413. 166 Mass. 347. 167 Mass. 290. 169 Mass. 387.

ART. XIV. SECT. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. 170 Mass. 328. 172 Mass. 311. 173 Mass. 322, 498. 174 Mass. 29. 175 Mass. 71, 369. 169 U. S. 649.

Apportionment of representatives. 159 Mass. 413.

SECT. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Certain persons who engaged in rebellion not to hold offices. U. S. Sts., 1898, 389.

SECT. 3. No person shall be a senator, or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Disability may be removed.

Debt of United States not to be questioned.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.

Debts incurred in aid of rebellion to be void, etc.

But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Appropriate legislation.

SECT. 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Right of citizenship not to be abridged. 159 Mass. 413.

ART. XV. SECT. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Appropriate legislation.

SECT. 2. The congress shall have power to enforce this article by appropriate legislation.

[NOTE. The constitution was adopted September 17, 1787, by the unanimous consent of the states present in the convention appointed in pursuance of the resolution of the congress of the confederation of February 21, 1787, and was ratified by the conventions of the several states, as follows, viz.: By convention of *Delaware*, December 7, 1787; *Pennsylvania*, December 12, 1787; *New Jersey*, December 18, 1787; *Georgia*, January 2, 1788; *Connecticut*, January 9, 1788; *Massachusetts*, February 6, 1788; *Maryland*, April 28, 1788; *South Carolina*, May 23, 1788; *New Hampshire*, June 21, 1788; *Virginia*, June 26, 1788; *New York*, July 26, 1788; *North Carolina*, November 21, 1789; *Rhode Island*, May 29, 1790.

The first ten of the amendments were proposed at the first session of the first congress of the United States, September 25, 1789, and were finally ratified by the constitutional number of states on December 15, 1791. The eleventh amendment was proposed at the first session of the third congress, March 5, 1794, and was declared in a message from the President of the United States to both houses of congress, dated January 8, 1798, to have been adopted by the constitutional number of states. The twelfth amendment was proposed at the first session of the eighth congress, December 12, 1803, and was adopted by the constitutional number of states in 1804, according to a public notice thereof by the secretary of state, dated September 25 of the same year.

The thirteenth amendment was proposed to the legislatures of the several states by the thirty-eighth congress on February 1, 1865, and was declared, in a proclamation of the secretary of state, dated December 18, 1865, to have been ratified by the legislatures of three-fourths of the states.

The fourteenth amendment was proposed to the legislatures of the several states by the thirty-ninth congress, on June 16, 1866.

On July 20, 1868, the secretary of state of the United States issued his certificate, setting out that it appeared by official documents on file in the department of state that said amendment had been ratified by the legislatures of the states of *Connecticut*, *New Hampshire*, *Tennessee*, *New Jersey*, *Oregon*, *Vermont*, *New York*, *Ohio*, *Illinois*, *West Virginia*, *Kansas*, *Maine*, *Nevada*, *Missouri*, *Indiana*, *Minnesota*, *Rhode Island*, *Wisconsin*, *Pennsylvania*, *Michigan*, *Massachusetts*, *Nebraska* and *Iowa*, and by newly established bodies avowing themselves to be and acting as the legislatures of the states of *Arkansas*, *Florida*, *North Carolina*, *Louisiana*, *South Carolina*, and *Alabama*; that the legislatures of *Ohio* and *New Jersey* had since passed resolutions withdrawing the consent of those states to said amendment; that the whole number of states in the United States was thirty-seven, that the twenty-three states first above named and the six states next above named together, constituted three-fourths of the whole number of states, and certifying that if the resolutions of *Ohio* and *New Jersey*, ratifying said amendment were still in force, notwithstanding their subsequent resolutions, then said amendment had been ratified and so become valid as part of the constitution.

On July 21, 1868, congress passed a resolution reciting that the amendment had been ratified by *Connecticut*, *Tennessee*, *New Jersey*, *Oregon*, *Vermont*, *West Virginia*, *Kansas*, *Missouri*, *Indiana*, *Ohio*, *Illinois*, *Minnesota*, *New York*, *Wisconsin*, *Pennsylvania*, *Rhode Island*, *Michigan*, *Nevada*, *New Hampshire*, *Massachusetts*, *Nebraska*, *Maine*, *Iowa*, *Arkansas*, *Florida*, *North Carolina*, *Alabama*, *South Carolina* and *Louisiana*, being three-fourths of the several states of the Union, and declaring said fourteenth article to be a part of the constitution of the United States and making it the duty of the secretary of state to duly promulgate it as such.

On July 28, 1868, the secretary of state issued his certificate, reciting the above resolution, and stating that official notice had been received at the department of state that action had been taken by the legislatures of the states in relation to said amendment, as follows: "It was ratified in A.D. 1866, by *Connecticut*, June 30; *New Hampshire*, July 7; *Tennessee*, July 19; *Oregon*, September 19; *Vermont*, November 9. In A.D. 1867, by *New York*, January 10; *Illinois*, January 15; *West Virginia*, January 16; *Kansas*, January 18; *Maine*, January 19; *Nevada*, January 22; *Missouri*, January 26; *Indiana*, January 29; *Minnesota*, February 1; *Rhode Island*, February 7; *Wisconsin*, February 13; *Pennsylvania*, February 13; *Michigan*, February 15; *Massachusetts*, March 20; *Nebraska*, June 15. In A.D. 1868, by *Iowa*, April 3; *Arkansas*, April 6; *Florida*, June 9; *Louisiana*, July 9; and *Alabama*, July 13.

"It was first ratified and the ratification subsequently withdrawn by *New Jersey*, ratified September 11, 1866, withdrawn April, 1868; *Ohio*, ratified January 11, 1867, and withdrawn January, 1868.

"It was first rejected and then ratified by *Georgia*, rejected November 13, 1866, ratified July 21, 1868; *North Carolina*, rejected December 4, 1866, ratified July 4, 1868; *South Carolina*, rejected December 20, 1866, and ratified July 9, 1868.

"It was rejected by *Texas*, November 1, 1866; *Virginia*, January 9, 1867; *Kentucky*, January 10, 1867; *Delaware*, February 7, 1867; and *Maryland*, March 23, 1867."

And on said July 28, 1868, and in execution of the act proposing the amendment and of the concurrent resolution of congress above mentioned and in pursuance thereof, the secretary of state directed that said amendment to the constitution be published in the newspapers authorized to promulgate the laws of the United States, and certified that it had been adopted in the manner above specified by the states named in said resolution, and that it "has become valid to all intents and purposes as a part of the constitution of the United States."

Subsequently it was ratified by *Virginia*, October 8, 1869, by *Georgia*, again February 2, 1870, and by *Texas*, February 18, 1870.

The fifteenth amendment was proposed to the legislatures of the several states by the fortieth congress on February 27, 1869, and was declared, in a proclamation of the secretary of state, dated March 30, 1870, to have been ratified by the constitutional number of states and to have "become valid to all intents and purposes as part of the constitution of the United States."]

A

CONSTITUTION

OR

FORM OF GOVERNMENT

FOR THE

Commonwealth of Massachusetts.

PREAMBLE.

Objects of government. — Body politic, how formed. — Its nature.

PART THE FIRST.

ARTICLE

1. Equality and natural rights of all men.
2. Right and duty of public religious worship. — Protection therein.
3. Legislature empowered to compel provision for public worship; and to enjoin attendance thereon. — Exclusive right of electing religious teachers secured. — Option as to whom parochial taxes may be paid, unless, etc. — All denominations equally protected. — Subordination of one sect to another prohibited.
4. Right of self-government secured.
5. Accountability of all officers, etc.
6. Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.
7. Objects of government; right of people to institute and change it.
8. Right of people to secure rotation in office.
9. All, having the qualifications prescribed, equally eligible to office.
10. Right of protection and duty of contribution correlative. — Taxation founded on consent. — Private property not to be taken for public uses without, etc.
11. Remedies, by recourse to the law, to be free, complete and prompt.
12. Prosecutions regulated. — Right to trial by jury in criminal cases, except, etc.
13. Crimes to be proved in the vicinity.
14. Right of search and seizure regulated.
15. Right to trial by jury sacred, except, etc.
16. Liberty of the press.
17. Right to keep and bear arms. — Standing armies dangerous. — Military power subordinate to civil.
18. Moral qualifications for office. — Moral obligations of lawgivers and magistrates.
19. Right of people to instruct representatives and petition legislature.

ARTICLE

20. Power to suspend the laws, or their execution.
21. Freedom of debate, etc., and reason thereof.
22. Frequent sessions, and objects thereof.
23. Taxation founded on consent.
24. *Ex post facto* laws prohibited.
25. Legislature not to convict of treason, etc.
26. Excessive bail or fines, and cruel punishments, prohibited.
27. No soldier to be quartered in any house, unless, etc.
28. Citizens exempt from law-martial, unless, etc.
29. Judges of supreme judicial court. — Tenure of their office. — Salaries.
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PART THE SECOND.

FRAME OF GOVERNMENT.

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2. Manner and time of choosing senators and councillors. — Word "inhabitant," defined.

ARTICLE
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4. Senate to be final judges of elections, etc., of its own members. — Vacancies, how filled.
5. Qualifications of a senator.
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8. shall try all impeachments. — Oath. — Limitation of sentence.
9. quorum.

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2. Secretary to keep records, to attend the governor and council, etc.

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CHAPTER V.

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ARTICLE
3. Value of money ascertained. — Property qualifications may be increased.
4. Provisions respecting commissions.
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6. Continuation of former laws, except, etc.
7. Benefit of *habeas corpus* secured, except, etc.
8. The enacting style.
9. Officers of former government continued until, etc.
10. Provision for revising constitution.
11. Provision for preserving and publishing this constitution.

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1. Bill, etc., not approved within five days, not to become a law, if legislature adjourn in the mean time.
2. General court empowered to charter cities. — Proviso.
3. Qualifications of voters for governor, lieutenant-governor, senators and representatives.
4. Notaries public, how appointed and removed. — Vacancies in the office of secretary and treasurer, how filled, in case, etc. — Commissary-general may be appointed, in case, etc. — Militia officers, how removed.
5. Who may vote for captains and subalterns.
6. Oath to be taken by all officers; or affirmation in case, etc.
7. Tests abolished.
8. Incompatibility of offices.
9. Amendments to constitution, how made.
10. Commencement of political year; and termination. — Meetings for choice of governor, lieutenant-governor, etc., when to be held. — May be adjourned. — Article, when to go into operation. — Inconsistent provisions annulled.
11. Religious freedom established.
12. Census of ratable polls. — Representatives, how apportioned.
13. Census of inhabitants. — Senatorial districts. — Apportionment of representatives and councillors. — Freehold as a qualification for a seat in general court or council not required.
14. Election by people to be by plurality.
15. Time of annual election of governor and legislature.
16. Eight councillors, how chosen. — State to be districted. — Eligibility defined. — Day and manner of election. — Vacancies, how filled. — Organization of government.
17. Election of secretary, treasurer, auditor and attorney-general by the people. — Vacancies, how filled. — To qualify within ten days. — Qualifications.
18. School money not to be applied for sectarian schools.
19. Legislature to prescribe for election of sheriffs, registers of probate, etc., by the people.
20. Reading constitution in English and writing, necessary qualifications of voters. — Proviso.
21. Census of voters and inhabitants. — House of representatives to consist of 240 members. — Legislature to apportion, etc. — Qualifications of representatives, and number for quorum.
22. Census of voters and inhabitants. — Senate to consist of 40 members. — Senatorial districts. — Proviso. — Qualifications of senators, and number for quorum.
23. Residence of two years required of naturalized citizens to entitle to suffrage, or make eligible to office. *Repealed.*
24. Vacancies in the senate.
25. Vacancies in the council.
26. Twenty-third article repealed.
27. Officers of Harvard College may be elected members of the general court.
28. Persons having served in the U. S. army or navy, etc., not to be disqualified from voting, etc.
29. Voting precincts in towns.
30. Voters not disqualified by reason of change of residence until six months from time of removal.
31. Amendments, Art. XXVIII., amended.
32. Provisions of amendments, Art. III., relative to payment of a tax as a voting qualification, annulled.
33. Quorum, in each branch of the general court, to consist of a majority of members.
34. Provisions of Art. II., § I., chap. II., relative to property qualification of governor, annulled.
35. Provisions of Art. II., § III., chap. I., relative to the expense of travelling to the general assembly by members of the house, annulled.
36. Amendments, Art. XIX., amended.

PREAMBLE.

Objects of government.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

Body politic, how formed. Its nature.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all

shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Equality and natural rights of all men. 99 Mass. 404. 155 Mass. 117. 163 Mass. 589. 172 Mass. 311.

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship. Protection therein. 20 Pick. 206, 219. 2 Cush. 104. 12 Allen, 127.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Amendment, Art. XI. substituted for this.

III. [As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of GOD, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

Legislature empowered to compel provision for public worship;

—and to enjoin attendance thereon.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers

aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance. Exclusive right of electing religious teachers secured.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised. Option as to whom parochial taxes may be paid, unless, etc.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.] All denominations equally protected. 8 Met. 162. Subordination of one sect to another prohibited.

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled. Right of self-government secured.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them. Accountability of all officers, etc.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural. Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural. 16 Pick. 353. 166 Mass. 14, 171.

167 Mass. 290. 175 Mass. 599.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it. Objects of government; right of people to institute and change it. 166 Mass. 14.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments. Right of people to secure rotation in office.

IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. All, having the qualifications prescribed, equally eligible to office. For the definition of "inhabitant," see Ch. 1, Sect. 2, Art. II.

122 Mass. 595. 160 Mass. 586.

Right of protection and duty of contribution correlative.

Taxation founded on consent.
16 Mass. 326.
1 Pick. 418.
7 Pick. 344.
12 Pick. 184, 467.
16 Pick. 87.
23 Pick. 360.
7 Met. 388.
11 Met. 55.
1 Gray, 1.
2 Gray, 1.
4 Gray, 474.
7 Gray, 359.

Private property not to be taken for public uses without, etc.
6 Cush. 327.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

7 Cush. 53.	99 Mass. 404.	126 Mass. 438.	151 Mass. 285.
10 Cush. 295.	100 Mass. 544, 560.	127 Mass. 50, 408	152 Mass. 540.
14 Gray, 155.	103 Mass. 120, 624.	129 Mass. 559.	158 Mass. 509.
16 Gray, 417.	106 Mass. 356.	132 Mass. 12.	160 Mass. 62.
1 Allen, 150.	108 Mass. 202, 213.	136 Mass. 75.	161 Mass. 302.
12 Allen, 223, 230.	111 Mass. 130.	142 Mass. 394.	159 U. S. 380.

Remedies, by recourse to the law, to be free, complete and prompt.
99 Mass. 404.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

Prosecutions regulated.
8 Pick. 211.
10 Pick. 9.
18 Pick. 434.
2 Met. 329.
1 Gray, 1.
5 Gray, 160.
99 Mass. 404.
103 Mass. 418.
107 Mass. 172.
109 Mass. 349.
114 Mass. 230, 285.
120 Mass. 118.
122 Mass. 330.
126 Mass. 250.
127 Mass. 450, 550.
129 Mass. 489, 559.
130 Mass. 35.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

132 Mass. 12.	149 Mass. 550.	163 Mass. 411, 581.	172 Mass. 311.
138 Mass. 344.	150 Mass. 66.	165 Mass. 133.	173 Mass. 322, 498.
141 Mass. 203.	152 Mass. 540.	169 Mass. 387, 417.	175 Mass. 71.
143 Mass. 124.	158 Mass. 598.	170 Mass. 328.	159 U. S. 380.

Right to trial by jury in criminal cases, except, etc.
8 Gray, 329, 373.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. 103 Mass. 418.

Crimes to be proved in the vicinity.
2 Pick. 550.
121 Mass. 61.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen. 151 Mass. 419.

Right of search and seizure regulated.
Const. of U. S., Amend't IV.
21 Pick. 156.
2 Met. 329.
5 Met. 98.
5 Cush. 369.
1 Gray, 1.
13 Gray, 454.
10 Allen, 403.
100 Mass. 136.
126 Mass. 269.
132 Mass. 12.
172 Mass. 311.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

Right to trial by jury sacred, except, etc.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has here-

tofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

Const. of U. S., Amend't VII. 2 Pick. 382. 7 Pick. 366. 5 Gray, 144. 11 Allen, 574. 99 Mass. 404. 102 Mass. 45. 114 Mass. 388. 120 Mass. 320.

122 Mass. 505, 516. 123 Mass. 590, 593. 125 Mass. 182, 188. 128 Mass. 600. 130 Mass. 236. 132 Mass. 354. 137 Mass. 483. 143 Mass. 543. 152 Mass. 416. 163 Mass. 446. 173 Mass. 68. 176 Mass. 229.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Liberty of the press. 3 Pick. 304. 20 Pick. 206. 151 Mass. 50.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil.

5 Gray, 121. 166 Mass. 171.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Moral qualifications for office.

Moral obligations of lawgivers and magistrates.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Right of people to instruct representatives and petition legislature. 1 Gray, 476. 114 Mass. 214. 156 Mass. 57.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Power to suspend the laws or their execution. 11 Mass. 396.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Freedom of debate, etc., and reason thereof. 4 Mass. 1, 26.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

Frequent sessions, and objects thereof.

XXIII. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Taxation founded on consent. 8 Allen, 247.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

Ex post facto laws prohibited. 12 Allen, 428. 155 Mass. 163. 158 Mass. 598. 172 Mass. 264.

173 Mass. 322.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Legislature not to convict of treason, etc.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

Excessive bail or fines, and cruel punishments, prohibited. 5 Gray, 482.

158 Mass. 598. 165 Mass. 66. 172 Mass. 311. 173 Mass. 322. 180 U. S. 311.

No soldier to be quartered in any house, unless, etc.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Citizens exempt from law-martial, unless, etc.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Judges of supreme judicial court.
3 Pick. 471.
1 Gray, 472.
5 Gray, 185, 223, 232.
4 Allen, 591.
7 Allen, 385.
105 Mass. 219, 225.
123 Mass. 190.
134 Mass. 314, 324.

Tenure of their office.

Salaries.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

Separation of executive, judicial, and legislative departments.
23 Pick. 334.
7 Met. 388.
2 Cush. 577.
2 Allen, 361.
8 Allen, 247, 253.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

100 Mass. 282, 544. 103 Mass. 267. 114 Mass. 247. 116 Mass. 317. 129 Mass. 559. 148 Mass. 148. 174 Mass. 514. 175 Mass. 71.

PART THE SECOND.

The Frame of Government.

Title of body politic.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of The Commonwealth of Massachusetts.

CHAPTER I.

THE LEGISLATIVE POWER.

Section I. *The General Court.*

Legislative department.

Article I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

For change of time, etc., see amendments, Art. X.

The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May;] and shall be styled, The General Court of Massachusetts.

Governor's veto.
99 Mass. 636.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such re-

vision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

Bill may be passed by two-thirds of each house, notwithstanding.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

For exception in case of adjournment of the general court within the five days, see amendments, Art. I.

3 Mass. 567. 135 Mass. 594.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

General court may constitute judicatories, courts of record, etc.
8 Gray, 1.
12 Gray, 147.

Courts, etc., may administer oaths.
108 Mass. 473, 476.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; — may enact

General court may enact laws, etc.
9 Gray, 426.
4 Allen, 466.
100 Mass. 544.
108 Mass. 142.
124 Mass. 95.
144 Mass. 497.
148 Mass. 375.
150 Mass. 592.
153 Mass. 566.
154 Mass. 579.
155 Mass. 117.
158 Mass. 299.
160 Mass. 157, 586.
161 Mass. 61, 259.
162 Mass. 113, 496, 510.
163 Mass. 589.
164 Mass. 54, 338.
165 Mass. 462.
166 Mass. 83.
172 Mass. 311.
173 Mass. 119, 495.
174 Mass. 476.
175 Mass. 154, 599.
176 Mass. 290.
159 U. S. 380.
167 U. S. 43.

laws, etc., not repugnant to the constitution.
4 Pick. 460.
6 Allen, 358.

and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

General court may provide for the election or appointment of officers.
115 Mass. 602.
138 Mass. 601.
165 Mass. 599.
166 Mass. 589.

— may prescribe their duties.

— may impose taxes, etc. 8 Met. 180. 8 Allen, 247. 11 Allen, 268. 12 Allen, 223, 298, 312, 500. 14 Allen, 359. 123 Mass. 493. 162 Mass. 113. 176 Mass. 9, 100 Mass. 282. 125 Mass. 521. 165 Mass. 287, 599. 210, 247. 101 Mass. 575. 127 Mass. 413. 166 Mass. 347. 177 Mass. 434. 103 Mass. 267. 133 Mass. 161. 172 Mass. 28. 125 U. S. 530. 114 Mass. 388. 134 Mass. 419. 173 Mass. 71, 350. 141 U. S. 40. 118 Mass. 386. 145 Mass. 108. 175 Mass. 242.

— may impose taxes, etc., to be disposed of for defence, protection, etc.

Valuation of estates once in ten years, at least, while, etc.
8 Allen, 247.
126 Mass. 547.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

For the authority of the general court to charter cities, see amendments, Art. II.

CHAPTER I.

Section II. *Senate.*

Senate, number of, and by whom elected. Superseded by amendments, Art. XIII., which was also superseded by amendments, Art. XXII.
126 Mass. 547.

Article I. [There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may, from time to time, be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

For provision as to councillors, see amendments, Art. XVI.

Counties to be districts, until, etc.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.: — Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.]

Manner and time of choosing senators and councillors. See amendments, Arts. X. and

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the [first Monday in April,] annually, forever, of the inhabitants of each town in the several counties of this

commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that town, district, or plantation where he dwelleth, or hath his home.

XV. As to cities, see amendments, Art. II. Provisions as to qualifications of voters, superseded by amendments, Arts. III., XX., XXVIII., XXX., XXXI. and XXXII. Word "inhabitant" defined. See also amendments, Art. XXIII., which was annulled by Art. XXVI. 5 Met. 587. 16 Gray, 337.

122 Mass. 595, 597. 124 Mass. 132, 144. 132 Mass. 89.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] annually; or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May:] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.]

Selectmen to preside at town meetings.

Return of votes.

As to cities, see amendments, Art. II.

Time changed to first Wednesday of January. See amendments, Art. X.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

Inhabitants of unincorporated plantations, who pay state taxes, may vote.

Plantation meetings.

Time of election changed by amendments, Art. XV.

Assessors to notify, etc.

III. And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the

Governor and council to examine and count votes, and issue summonses.

Time changed to first Wednesday in January by amendments, Art. X. Majority changed to plurality by amendments, Art. XIV.

returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

Senate to be final judge of elections, etc., of its own members. 115 Mass. 383. Time changed to first Wednesday of January by amendments, Art. X. Majority changed to plurality by amendments, Art. XIV.

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] annually, determine and declare who are elected by each district to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

Vacancies, how filled. Changed to election by people. See amendments, Art. XXIV.

Qualifications of a senator. Property qualification abolished. See amendments, Art. XIII. For further provision as to residence, see also amendments, Art. XXII.

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold, within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

Senate not to adjourn more than two days.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

— shall choose its officers and establish its rules.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

— shall try all impeachments. 167 Mass. 599.

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

Oath.

Limitation of sentence.

Quorum. See amendments, Arts. XXII. and XXXIII.

IX. [Not less than sixteen members of the senate shall constitute a quorum for doing business.]

CHAPTER I.

SECTION III. *House of Representatives.*

ARTICLE I. There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

Representation of the people.

II. [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls may elect one representative; every corporate town containing three hundred and seventy-five ratable polls may elect two representatives; every corporate town containing six hundred ratable polls may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Representatives, by whom chosen. Superseded by amendments, Arts. XII. and XIII., which were also superseded by amendments, Art. XXI.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.]

Proviso as to towns having less than 150 ratable polls.

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Towns liable to fine in case, etc.

[The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.]

Expenses of travelling to and from the general court, how paid. Annulled by amendments, Art. XXXV.

III. Every member of the house of representatives shall be chosen by written votes; [and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

Qualifications of a representative. New provision as to residence. See amendments, Art. XXI. Property qualifications abolished by amendments, Art. XIII.

IV. [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the said town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.]

Qualifications of a voter. These provisions superseded by amendments, Arts. III., XX., XXVIII., XXX., XXXI. and XXXII. See also amendments, Art. XXIII., which was annulled by Art. XXVI.

V. [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

Representatives, when chosen.

Time of election changed by amendments, Art. X., and changed again by amendments, Art. XV.

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House alone can impeach.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

House to originate all money bills. 126 Mass. 557.

Not to adjourn more than two days.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Quorum. See amendments, Arts. XXI. and XXXIII.

IX. [Not less than sixty members of the house of representatives shall constitute a quorum for doing business.]

To judge of returns, etc., of its own members; to choose its officers and establish its rules, etc. May punish for certain offences. 14 Gray, 226. 115 Mass. 383. 122 Mass. 428. 123 Mass. 525, 529.

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

Privileges of members. 3 Gray, 468.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

Senate. Governor and council may punish. General limitation.

XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases; provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Trial may be by committee, or otherwise. 3 Gray, 468.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

CHAPTER II.

EXECUTIVE POWER.

SECTION I. *Governor.*

Governor.

ARTICLE I. There shall be a supreme executive magistrate, who shall be styled — THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY.

His title.

To be chosen annually. Qualifications. See amendments, Arts. VII. and XXXIV.

II. The governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; [and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds;] [and unless he shall declare himself to be of the Christian religion.]

By whom chosen, if he have a majority of votes. Time of election changed by amendments, Art. X., and changed again by

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the [first Monday of April] annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in

open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives on the [last Wednesday in May], to be by them examined; and [in case of an election by a majority of all the votes returned], the choice shall be by them declared and published; [but if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.]

amendments, Art. XV.

As to cities, see amendments, Art. II.

Time changed to first Wednesday of January by amendments, Art. X.

Changed to plurality by amendments, Art. XIV.

How chosen, when no person has a majority.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

Power of governor, and of governor and council.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

May adjourn or prorogue the general court upon request, and convene the same.

As to dissolution, see amendments, Art. X.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.]

As to dissolution, see amendments, Art. X.

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor and council may adjourn the general court in cases, etc., but not exceeding ninety days.

VII. The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern

Governor to be commander-in-chief.

8 Mass. 548.

the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Limitation.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state to which they cannot otherwise conveniently have access.

Governor and council may pardon offences, except, etc.
24 Pick. 277.
14 Mass. 472.
109 Mass. 323.
129 Mass. 489, 498.
135 Mass. 48.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

But not before conviction.

Judicial officers, etc., how nominated and appointed. For provisions as to election of attorney-general, see amendments, Art. XVII.

IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

For provision as to election of sheriffs, registers of probate, etc., see amendments, Art. XIX. For provision as to appointment of notaries public, see amendments, Art. IV.

Militia officers, how elected. Limitation of age struck out by amendments, Art. V.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, [of twenty-one years of age and upwards;] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

How commissioned.

Election of officers.

The legislature shall, by standing laws, direct the time and man-

ner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor. Major-generals, how appointed and commissioned.

For provisions as to appointment of a commissary-general, see amendments, Art. IV.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices. Vacancies, how filled, in case, etc.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.] Officers duly commissioned, how removed. Superseded by amendments, Art. IV.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general. Adjutants, etc., how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons. Army officers, how appointed.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law. Organization of militia.

XI. No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court. Money, how drawn from the treasury, except, etc. 13 Allen, 593.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent. All public boards, etc., to make quarterly returns.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

Salary of governor.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salaries of justices of supreme judicial court.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries to be enlarged if insufficient.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

Section II. *Lieutenant-Governor.*

Lieutenant-governor; his title and qualifications. See amendments, Arts. VII. and XXXIV.

Article I. There shall be annually elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be — His Honor; and who shall be qualified, in point of [religion,] [property,] and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; [and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.]

How chosen.

Election by plurality provided for by amendments, Art. XIV.

President of council. Lieutenant-governor a member of, except, etc.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

Lieutenant-governor to be acting governor, in case, etc.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

CHAPTER II.

Section III. *Council, and the Manner of settling Elections by the Legislature.*

Council. Number of councillors changed to eight. See amendments, Art. XVI. 14 Mass. 470.

Article I. There shall be a council for advising the governor in the executive part of the government, to consist of [nine] persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor,

with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

Number; from whom, and how chosen. Modified by amendments, Arts. X. and XIII. Superseded by amendments, Art. XVI. 3 Pick. 517.

II. [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.]

If senators become councillors, their seats to be vacated.

Rank of councillors.

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

No district to have more than two.

IV. [Not more than two councillors shall be chosen out of any one district of this commonwealth.]

Superseded by amendments, Art. XVI.

Register of council.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

Council to exercise the power of governor in case, etc.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority to do, and execute, all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Elections may be adjourned until, etc.

VII. [And whereas the elections appointed to be made, by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.]

Order thereof. Superseded by amendments, Arts. XVI. and XXV.

CHAPTER II.

Section IV. *Secretary, Treasurer, Commissary, etc.*

Secretary, etc., by whom and how chosen. For provision as to election of secretary, treasurer and receiver-general, and auditor and attorney-general, see amendments, Art. XVII.

Article I. [The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and] naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

Treasurer ineligible for more than five successive years. For provision as to appointment of notaries public and the commissary-general, see amendments, Art. IV.

Secretary to keep records; to attend the governor and council, etc.

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, etc. But may be removed on address. 3 Cush. 584. 134 Mass. 314.

ARTICLE I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with the consent of the council, may remove them upon the address of both houses of the legislature.

Justices of supreme judicial court to give opinions when required. 122 Mass. 600. 126 Mass. 557.

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions. 148 Mass. 623. 150 Mass. 598.

Justices of the peace; tenure of their office. 107 Mass. 604.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

Provisions for holding probate courts. 12 Gray, 147.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

Marriage, divorce, and alimony. Other provisions made by law.

V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision. 105 Mass. 327. 116 Mass. 317. 120 Mass. 320.

CHAPTER IV.

DELEGATES TO CONGRESS.

Delegates to congress.

[The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.]

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION I. *The University.*

ARTICLE I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America, — it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Harvard College.

Powers, privileges, etc., of the president and fellows, confirmed.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

All gifts, grants, etc., confirmed.

III. And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its

Who shall be overseers.

Power of alteration reserved to the legislature.

advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

CHAPTER V.

SECTION II. *The Encouragement of Literature, etc.*

Duty of legislatures and magistrates in all future periods. For further provisions as to public schools, see amendments, Art. XVIII. 10 Met. 508. 12 Allen, 500. 103 Mass. 94. 165 Mass. 419.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

Oaths, etc.

ARTICLE I. [Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

Abolished. See amendments, Art. VII.

"I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seised and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected."

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being.]

Declaration and oaths of all officers. 3 Cush. 586.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

["I, A. B., do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD."] For new oath of allegiance, see amendments, Art. VI.

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as , according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, GOD." Oath of office.

Provided, always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, ["*I do swear*," "*and abjure*," "*oath or*," "*and abjuration*," in the first oath, and in the second oath, the words] "*swear and*," and [in each of them] the words "*So help me*, GOD;" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*" Proviso. See amendments, Art. VI.

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature. Oaths and affirmations, how administered.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever. Plurality of offices prohibited to governor, etc., except, etc. See amendments, Art. VIII.

Same subject. 1 Allen, 553.

No person shall be capable of holding or exercising at the same time, within the state, more than one of the following offices, viz.: judge of probate — sheriff — register of probate — or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices. For further provisions as to incompatible offices, see amendments, Art. VIII. Officers of Harvard College excepted by amendments, Art. XXVII. 3 Pick. 517.

No person holding the office of judge of the supreme judicial court — secretary — attorney-general — solicitor-general — treasurer or receiver-general — judge of probate — commissary-general — [president, professor, or instructor of Harvard College] — sheriff — clerk of the house of representatives — register of probate — register of deeds — clerk of the supreme judicial court — clerk of the inferior court of common pleas — or officer of the customs, including in this description naval officers — shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

Incompatible offices.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Bribery, etc., disqualify.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

Value of money ascertained.

III. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.

Property qualifications may be increased. See amendments, Arts. XIII. and XXXIV.

Provisions respecting commissions.

IV. All commissions shall be in the name of the commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

Provisions respecting writs. 2 Pick. 592. 3 Met. 58. 13 Gray, 74. 108 Mass. 338.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Continuation of former laws, except, etc. 1 Mass. 59. 2 Mass. 534. 8 Pick. 309. 16 Pick. 107. 2 Met. 118. 4 Met. 111. 9 Met. 93, 110.

VI. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

13 Met. 68. 5 Cush. 503. 139 Mass. 29. 148 Mass. 309, 321.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions and for a limited time, not exceeding twelve months. Benefit of *habeas corpus* secured, except, etc.

VIII. The enacting style, in making and passing all acts, statutes and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same." The enacting style.

IX. To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments, and authority; until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers and authority. Officers of former government continued until, etc.

X. [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments. Provision for revising constitution. For existing provision as to amendments, see amendments, Art. IX.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns to elect delegates to meet in convention for the purpose aforesaid. Provision for revising constitution.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws. Provision for preserving and publishing this constitution.

ARTICLES OF AMENDMENT.

Bill, etc., not approved within five days, not to become a law, if legislature adjourn in the mean time.
3 Mass. 567.
See Const., Ch. I., § 1, Art. II.

ARTICLE I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

General court empowered to charter cities.
114 Mass. 214.
122 Mass. 354.
160 Mass. 102.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

Proviso.
112 Mass. 200.

Qualifications of voters for governor, lieutenant-governor, senators and representatives.
See amendments, Arts. XXX. and XXXII.
11 Pick. 538.
5 Met. 591.
7 Gray, 299.
122 Mass. 595.
124 Mass. 596.
144 Mass. 497.
159 Mass. 413.
For educational qualification, see amendments, Art. XX.

ART. III. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, [and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned,] shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election.

For provision as to those who have served in the army or navy in time of war, see amendments, Arts. XXVIII. and XXXI. See also amendments, Art. XXIII., which was annulled by amendments, Art. XXVI.

Notaries public, how appointed and removed.
150 Mass. 586.
165 Mass. 599.

ART. IV. Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

Vacancies in the offices of secretary and treasurer, how filled.
This clause superseded by amendments, Art. XVII.

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant

office, who shall hold the same until a successor shall be appointed by the general court.]

Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned, in such manner as the legislature may, by law, prescribe. Commissary-general may be appointed, in case, etc.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe. Militia officers, how removed.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote. Who may vote for captains and subalterns.

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit: — Oath to be taken by all officers. See Const., Ch. VI., Art. I.

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD."

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear" and inserting, instead thereof, the word "affirm," and omitting the words "So help me, God," and subjoining, instead thereof, the words, "This I do under the pains and penalties of perjury." Proviso. Quakers may affirm.

ART. VII. No oath, declaration, or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them to perform the duties of their respective offices. Tests abolished.

ART. VIII. No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted. Incompatibility of offices. 5 Met. 508. 2 Cush. 577. 122 Mass. 445, 600. 123 Mass. 535.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be Amendments to constitution, how made.

chosen, and shall be published; and if, in the general court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.

Commencement of political year,

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

and termination.

Meetings for the choice of governor, lieutenant-governor, etc., when to be held. This clause superseded by amendments, Art. XV. 23 Pick. 547.

[The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.]

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

Article, when to go into operation.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation, pursuant to the foregoing provision.

Inconsistent provisions annulled.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted : — Religious freedom established. See Dec. of Rights, Art. III.

"As the public worship of GOD and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law." 122 Mass. 40.

ART. XII. [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls, in each city, town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more. Census of ratable polls to be taken in 1837, and decennially thereafter. This article was superseded by amendments, Art. XIII., which was also superseded by amendments, Art. XXI. Representatives, how apportioned.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid. Towns having less than 300 ratable polls, how represented.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid. Fractions, how represented.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district to continue until the next decennial census of polls, for the election of a representative, or representatives; and such district shall have all the rights, in regard to representation, Towns may unite into representative districts.

which would belong to a town containing the same number of ratable polls.

The governor and council to determine the number of representatives to which each town is entitled.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years, thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.]

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of representation.

ART. XIII. [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

Provisions as to census superseded by amendments, Arts. XXI. and XXII.

Senatorial districts declared permanent. Provisions as to senators superseded by amendments, Art. XXII.

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

House of representatives, how apportioned. Provisions as to representatives superseded by amendments, Art. XXI.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

Small towns, how represented.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times within ten years as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Towns may unite into representative districts.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such

district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

Basis of representation, and ratio of increase.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns not entitled to a representative every year is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

The governor and council to apportion the number of representatives of each town once in every ten years.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Councillors to be chosen from the people at large. Provisions as to councillors superseded by amendments, Art. XVI.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor, who has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.]

Qualifications of councillors.

Freehold as a qualification for a seat in general court or council not required.

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

Elections by the people to be by plurality of votes.

ART. XIV. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Time of annual election of governor and legislature. 23 Pick. 547.

ART. XV. The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Eight councillors to be chosen by the people. 122 Mass. 595.

ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafterwards, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided*, *however*, that if, at any time, the constitution shall provide for the division of

Legislature to district state.

the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be, after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

Eligibility defined.

Day and manner of election, etc.

Vacancies, how filled. For new provision as to vacancies, see amendments, Art. XXV.

Organization of the government.

Election of secretary, treasurer, auditor, and attorney-general by the people. 3 Gray, 601. 8 Gray, 1.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to

Vacancies, how filled.

To qualify within ten days, otherwise office to be deemed vacant.

qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

Qualification requisite.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

School moneys not to be applied for sectarian schools. For original provision as to schools, see constitution, Part First, Art. III. 12 Allen, 500. 103 Mass. 94.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe. 8 Gray, 1. 110 Mass. 172. 117 Mass. 603. 121 Mass. 65.

Legislature to prescribe for the election of sheriffs, registers of probate, etc. See amendments, Art. XXXVI. 3 Gray, 601.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect. 159 Mass. 413.

Reading constitution in English and writing, necessary qualifications of voters. Proviso. For other qualifications, see amendments, Art. III. See also amendments, Art. XXIII., which was annulled by amendments, Art. XXVI.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

Census of legal voters and of inhabitants, when taken, etc.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and

House of representatives to consist of 240 members. Legislature to apportion, etc. 10 Gray, 613. 114 Mass. 214, 226. 157 Mass. 595.

Secretary shall certify to officers authorized to divide counties.

aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, — shall on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. [Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

Meeting for division to be first Tuesday in August. Proceedings. 142 Mass. 601.

Qualifications of representatives. 122 Mass. 595.

Districts to be numbered, described and certified.

Quorum, see amendments, Art. XXXIII.

Census, etc.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided*, *however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall

Voters to be basis of apportionment of senators.

Senate to consist of forty members.

Senatorial districts, etc.

See amendments, Art. XXIV. 114 Mass. 214, 226. 142 Mass. 601. 157 Mass. 595.

Qualifications of senators. 122 Mass. 594.

cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. [Not less than sixteen senators shall constitute a quorum for doing business, but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.] Quorum, see amendments, Art. XXXIII.

ART. XXIII. [No person of foreign birth shall be entitled to vote or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided*, *further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.] Residence of two years required of naturalized citizens, to entitle to suffrage or make eligible to office. This article annulled by Art. XXVI.

ART. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected. Vacancies in the senate.

ART. XXV. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person. Vacancies in the council.

ART. XXVI. The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided*, *further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled. Twenty-third article of amendments annulled.

ART. XXVII. So much of article two of chapter six of the constitution of this commonwealth as relates to persons holding the office of president, professor, or instructor of Harvard College, is hereby annulled. Provisions of Art. II., Chap. VI., relating to officers of Harvard College, annulled.

ART. XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of being a pauper; or, if a pauper, because of the non-payment of a poll tax. Superseded by Art. XXXI.

ART. XXIX. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled. Voting precincts in towns.

Voters not disqualified by reason of change of residence until six months from time of removal.

ART. XXX. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

Amendments, Art. XXVIII. amended.

ART. XXXI. Article twenty-eight of the amendments of the constitution is hereby amended by striking out in the fourth line thereof the words "being a pauper", and inserting in place thereof the words: — receiving or having received aid from any city or town, — and also by striking out in said fourth line the words "if a pauper", so that the article as amended shall read as follows:

Person who served in army or navy, etc., not disqualified from voting for non-payment of poll tax.

ARTICLE XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

Provisions of amendments, Art. III., relative to a payment of a tax as a voting qualification, annulled. 159 Mass. 413.

ART. XXXII. So much of article three of the amendments of the constitution of the commonwealth as is contained in the following words: "and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned", is hereby annulled.

Quorum, in each branch of the general court, to consist of a majority of members.

ART. XXXIII. A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Provisions of Art. II., § I., Chap. II., Part II., relative to property qualification of governor, annulled.

ART. XXXIV. So much of article two of section one of chapter two of part the second of the constitution of the commonwealth as is contained in the following words: "and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds", is hereby annulled.

Provisions of Art. II., § III., Chap. I., relative to expense of travelling to the general assembly by members of the house, annulled.

ART. XXXV. So much of article two of section three of chapter one of the constitution of the commonwealth as is contained in the following words: "The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave", is hereby annulled.

Amendments, Art. XIX. amended.

ART. XXXVI. So much of article nineteen of the articles of amendment to the constitution of the commonwealth as is contained in the following words: "commissioners of insolvency", is hereby annulled.

The constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the mean time the constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the constitution had been adopted by the requisite number of

votes, and the convention accordingly *Resolved*, "That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution." The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them ratified and adopted April 9, 1821.

The tenth Article was adopted by the legislatures of the political years 1829–30 and 1830–31, respectively, and was approved and ratified by the people May 11, 1831.

The eleventh Article was adopted by the legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people November 11, 1833.

The twelfth Article was adopted by the legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people the fourteenth day of November, 1836.

The thirteenth Article was adopted by the legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth Articles were adopted by the legislatures of the political years 1854 and 1855, respectively, and ratified by the people the twenty-third day of May, 1855.

The twentieth, twenty-first, and twenty-second Articles were adopted by the legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.

The twenty-third Article was adopted by the legislatures of the political years 1858 and 1859, respectively, and ratified by the people on the ninth day of May, 1859, and was repealed by the twenty-sixth Amendment.

The twenty-fourth and twenty-fifth Articles were adopted by the legislatures of the political years 1859 and 1860, and ratified by the people on the seventh day of May, 1860.

The twenty-sixth Article was adopted by the legislatures of the political years 1862 and 1863, and ratified by the people on the sixth day of April, 1863.

The twenty-seventh Article was adopted by the legislatures of the political years 1876 and 1877, and was approved and ratified by the people on the sixth day of November, 1877.

The twenty-eighth Article was adopted by the legislatures of the political years 1880 and 1881, and was approved and ratified by the people on the eighth day of November, 1881.

The twenty-ninth Article was adopted by the legislatures of the political years 1884 and 1885, and was approved and ratified by the people on the third day of November, 1885.

The thirtieth and thirty-first Articles were adopted by the legislatures of the political years 1889 and 1890, and were approved and ratified by the people on the fourth day of November, 1890.

The thirty-second and thirty-third Articles were adopted by the legislatures of the political years 1890 and 1891, and were approved and ratified by the people on the third day of November, 1891.

The thirty-fourth Article was adopted by the legislatures of the political years 1891 and 1892, and was approved and ratified by the people on the eighth day of November, 1892.

The thirty-fifth Article was adopted by the legislatures of the political years 1892 and 1893, and was approved and ratified by the people on the seventh day of November, 1893.

The thirty-sixth Article was adopted by the legislatures of the political years 1893 and 1894, and was approved and ratified by the people on the sixth day of November, 1894.

REVISED LAWS

OF

MASSACHUSETTS.

Commonwealth of Massachusetts.

IN THE YEAR ONE THOUSAND NINE HUNDRED AND ONE.

AN ACT

FOR

CONSOLIDATING AND ARRANGING

THE

GENERAL STATUTES

OF THE

COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same:

PART I.

OF THE ADMINISTRATION OF THE GOVERNMENT.

TITLE I.

OF THE JURISDICTION, ARMS AND GREAT SEAL OF THE COMMONWEALTH, THE GENERAL COURT, THE GOVERNOR AND COUNCIL, THE EXECUTIVE OFFICERS, THE STATUTES, THE PRINTING AND DISTRIBUTION OF THE LAWS AND PUBLIC DOCUMENTS, THE STATE HOUSE, ETC.

CHAPTER 1. — Of the Jurisdiction of the Commonwealth and Places ceded to the United States.
CHAPTER 2. — Of the Arms and the Great Seal of the Commonwealth.
CHAPTER 3. — Of the General Court.
CHAPTER 4. — Of the Governor, Lieutenant Governor and Council.
CHAPTER 5. — Of the Secretary of the Commonwealth.
CHAPTER 6. — Of the Treasurer and Receiver General, the Auditor of Accounts and Matters of Finance.
CHAPTER 7. — Of the Attorney General and the District Attorneys.
CHAPTER 8. — Of the Statutes.
CHAPTER 9. — Of the Printing and Distribution of the Laws and Public Documents.
CHAPTER 10. — Of the State House, the Sergeant-at-Arms and the State Library.

CHAPTER 1.

OF THE JURISDICTION OF THE COMMONWEALTH AND PLACES CEDED TO THE UNITED STATES.

Citizenship defined.

SECTION 1. All persons who are citizens of the United States and who are domiciled in this commonwealth are citizens thereof.

Jurisdiction of the commonwealth. R. S. 1, § 1. G. S. 1, § 2. P. S. 1, § 2.

SECTION 2. The sovereignty and jurisdiction of the commonwealth extend to all places within the boundaries thereof, subject to the concurrent jurisdiction granted over places ceded to the United States.

Territorial limits of the commonwealth.

SECTION 3. The territorial limits of this commonwealth extend one marine league from its sea shore at extreme low water mark.

1859, 289.
G. S. 1, § 1.
P. S. 1, § 1.
3 Gray, 270.
147 Mass. 64.

If an inlet or arm of the sea does not exceed two marine leagues in width between its headlands, a straight line from one headland to the other is equivalent to the shore line.

152 Mass. 230. 5 Mason, 290. 139 U. S. 240.

Repair of state boundaries.
1898, 299.
1901, 469, § 1.

SECTION 4. The board of harbor and land commissioners shall in the year nineteen hundred and five and in every fifth year thereafter examine and inspect all the monuments or other marks defining the location of the boundary lines of the commonwealth, and if any of them have been injured, displaced, removed or lost, said commissioners shall, in co-operation with persons duly authorized by the adjoining state, restore them or replace them with suitable stone monuments, and in the same manner set suitable stone monuments at points not properly marked where the state boundary is intersected by the boundary of any counties, cities or towns in the commonwealth or by a highway or railroad. If officers of adjoining states are required to make such examination or inspection at other times than are above prescribed, said commissioners may at such other times co-operate with said officers as aforesaid. They shall include the estimated cost of such work in their annual estimates to the auditor of accounts.

Places ceded to the United States.
R. S. 1, § 2.
G. S. 1, § 3.
P. S. 1, § 3.
8 Mass. 77.
17 Pick. 298.
1 Met. 580.

SECTION 5. The several places ceded to the United States for arsenals, beacons, custom houses, dock yards, forts, hospitals, lighthouses, military stations, post offices or other purposes, and over which concurrent jurisdiction has been granted to the United States, shall continue to be subject to such concurrent jurisdiction, according to the tenor and effect of the respective laws by which they were ceded; that is to say: —

Beacons.
1790, 4, § 1.
1819, 69, § 1.
1832, 41.
1834, 39.
1855, 17.

For beacons, the spit of sand near Light House Island in Boston harbor;

Half-Way Rock in Boston Bay;

Nix's Mate in Boston harbor;

A site on Point Allerton Bar in Boston harbor;

A site on the island of Nantucket;

Buoys.
1790, 4, § 1.

The four buoys at the mouth of Merrimack River, — namely, one on the Hum Sands, one on the Sunken Rocks, one on the Ganway Rock and one on the Half Tide Rocks;

Custom houses.
1855, 21, 127.

Tracts of land in Barnstable, Boston, Fall River, Gloucester, New Bedford, Newburyport and Salem, for custom houses;

Hospitals, etc.
1803, 65.

A tract of land on Martha's Vineyard and the building erected thereon as a hospital;

1825, 181.
1827, 66.
1848, 167.

Tracts of land in Chelsea for hospitals and a depot of ordnance stores;

Islands, etc.
1798, 13, §§ 1, 2.
1807, 125.

Castle Island, Governor's Island, George's Island and Lovell's Island, in Boston harbor;

1846, 16.
1821, 35.

A part of Tinker's Island, Marblehead Rock and the East Rock of Cat Island;

1855, 17.

Egg Rock Island near Nahant;

1856, 100.

Egg Island Shoal in New Bedford harbor;

Lighthouses, etc.

The several lighthouses and the lands and tenements thereunto belonging, as follows: —

1796, 25, § 1.

A tract of land on Baker's Island;

A tract of land at east end of Derby Wharf in Salem;

Tracts of land on Light House Island, on Long Island Head, Spectacle Island, and a submarine tract on Deer Island Point and at the Spit, in Boston harbor; 1790, 4, § 1. 1819, 69, § 3. 1855, 17.

Minot's Rock or Ledge in Massachusetts Bay and a tract of land in Cohasset for a light keeper's house, warehouse and wharf, for the convenience of Minot's Ledge light; 1847, 109. 1858, 42.

A tract of land on Monamoy Point in the county of Barnstable; 1823, 12.

A tract of land at Bass River in the county of Barnstable; 1853, 288.

A tract of land at Hyannis in the town of Barnstable; 1849, 67.

A tract of land on Billingsgate Island; 1857, 116. 1822, 1.

Bird Island and Dumpling Rock in Buzzard's Bay; 1819, 69, § 2. 1828, 30, § 1.

A tract of land on Cape Cod; 1796, 25, § 1.

Tracts of land at Cape Poge; 1800, 70. 1838, 138.

A tract of land at or near the entrance of Chatham harbor and at Stage harbor in Chatham; 1806, 21, 79.

A tract of land on the island of Cuttyhunk; 1822, 23.

A tract of land near Nauset Beach in Eastham; 1838, 164.

A tract of land on Nobsque Point in Falmouth; 1828, 30, § 2.

A tract of land in Falmouth at a place now or formerly called Wood's Hole; 1867, 286.

A tract of land on Hospital Point in Beverly;

A tract of land for lighthouses on Wigwam Point and Eastern Point in Gloucester; 1800, 7. 1831, 45.

A tract of land in Newburyport for range lights;

Ten Pound Island in Gloucester harbor; 1820, 3.

Straitsmouth Island; 1835, 151.

A tract of land on Ipswich Beach in Ipswich; 1838, 164.

A tract of land at the Neck in Marblehead; 1835, 98.

A tract of land on East Chop in Vineyard Haven harbor;

A tract of land on the West Chop of Holmes' Hole on Martha's Vineyard; 1817, 2.

Three tracts of land at the head of Holmes' Hole harbor in Tisbury; 1853, 72.

A submarine tract of land known as Bishop and Clerks Ledge in Vineyard Sound; 1874, 130.

A tract of land at the entrance of Edgartown harbor; 1828, 30, § 3.

A tract of land at Gay Head; 1798, 60.

A tract of land on Sandy Point in Nantucket; 1790, 4, § 1.

A tract of land on Brant Point at the entrance of Nantucket harbor; 1795, 18. 1838, 138.

A tract of land in Nantucket; 1838, 138.

A tract of land at Sancoty Head in Nantucket; 1849, 100.

A tract of land at the end of Clarke's Point in New Bedford; 1800, 17.

A tract of land on Palmer's Island in New Bedford harbor; 1849, 14.

A submarine site on Butler Flats in New Bedford harbor;

Tracts of land on the north end of Plumb Island; 1790, 4, § 1.

A submarine tract of land at Duxbury Pier in Plymouth; 1874, 130.

A tract of land on the Gurnet Head in the town of Plymouth; 1790, 4, § 1.

A tract of land on Race Point in Provincetown; 1816, 47, § 1.

A tract of land at or near Tarpaulin Cove on Naushon Island; 1816, 47, § 2. 1817, 7.

Tracts of land on Long Point and at Wood End in Provincetown; 1826, 38.

A tract of land on Sandy Neck in the town of Barnstable; 1826, 38.

A tract of land on House Point Island in Provincetown; 1864, 77.

1838, 138. A tract of land at Nid's Point in Rochester; 87
1849, 14. A tract of land on Wing's Neck in Sandwich; 88
1810, 54. A tract of land at the entrance of Scituate harbor; 89
1790, 4, § 1. Tracts of land on Thacher's Island; 90
1849, 40. 1855, 17. Tracts of land in Truro; 91
1838, 164. A tract of land on Mayo's Beach in Wellfleet; 92
1855, 17. 1858, 53. Tracts of land on Point of Rocks at the entrance of Westport 93
harbor; 94
Military works, etc. The several tracts of land used for military and naval purposes, 95
as follows: — 96
1800, 26. 1825, 8. 1862, 195. A tract of land for a navy yard in Boston; 97
1867, 35. 1868, 249. 1899, 64. 1900, 247.
1868, 292, 293. 1869, 7. Tracts of land on Long Island in Boston harbor for military 98
works, sea wall and landing place; 1900, 178. 99
1897, 240, § 2. 1901, 232. Part of the northerly end of Peddock's Island in Boston harbor; 100
1898, 512. Two tracts of land in Hull; 101
1864, 283. A tract of land in Malden for a naval and military ordnance yard 102
and depot; 103
1856, 100. 1857, 119. Tracts of land on Clarke's Point in New Bedford; 104
1869, 458. 1870, 396. Sites of Fort Andrew and Fort Standish, near the entrance of 105
Plymouth harbor; 106
1865, 109. Winter Island in Salem harbor; 107
1798, 13, § 2. A tract of land in Springfield; 108
1816, 15. A tract of land in Watertown, for forts, magazines, arsenals, 109
dock yards and other buildings; 110
1891, 81. Two tracts of land in Winthrop; 111
Piers, etc. 1828, 63. A tract of land near the mouth of Merrimack River in Newbury, 112
for a pier or breakwater; 113
1816, 1. The rocks and flats under the piers in Merrimack River called 114
the Half Tide Rocks and North Rocks; 115
Post offices, etc. Several tracts of land in Boston, for a post office and sub- 116
1868, 323. treasury; 1870, 327. 1871, 82. 1873, 189. 117
1891, 197. Tracts of land in Brockton, Fall River, Haverhill, Lowell, Lynn, 118
New Bedford, Newburyport, Salem, Springfield, Taunton, Vineyard 119
Haven and Worcester, for post offices; 120
Sea walls, etc. 1867, 315. 1889, 27. A tract of land on Gallop's Island and a tract of land on Point 121
Allerton in Boston harbor, for the construction and protection of 122
sea walls; 123
1853, 306. Such tracts of land in Falmouth as are necessary for the con- 124
struction and maintenance of a sea wall in the harbor of Great 125
Wood's Hole; 126
1849, 45. A tract of land on Great Brewster Island in Boston harbor; 127
1853, 296, 396. Tracts of land in Provincetown and Truro, for the preservation 128
of Cape Cod harbor; 129
1847, 235. 1874, 383, § 2. A tract of land in Fairhaven; Sow and Pigs Island, lying off 130
the southwest side of the island of Cuttyhunk; and Sow and Pigs 131
reef. 132

Concurrent jurisdiction in ceded land. 1871, 233. 1872, 309. 1873, 43. 1874, 383, § 1. 1875, 35. P. S. 1, § 4. 1882, 131. SECTION 6. If the United States have acquired or hereafter ac- 1
quire a title thereto in fee, they shall have jurisdiction over any 2
tracts of land within the commonwealth which may be necessary 3
for the erection of marine hospitals, customs offices, post offices, 4
life-saving stations, lighthouses, beacon lights, range lights, light 5
keepers' dwellings or signals for navigators or for the use of the 6

United States fish and fisheries commission; but a suitable plan of any such tract shall be filed in the office of the secretary of the commonwealth within one year after the title thereto has been acquired. But the commonwealth shall retain concurrent jurisdiction with the United States in and over all such tracts of land to the extent that all civil and criminal processes issuing under authority of the commonwealth may be executed thereon in the same way and manner as if jurisdiction had not been ceded as aforesaid, and exclusive jurisdiction over any such tract shall revest in the commonwealth if such tract ceases to be used by the United States for such public purposes.

Compensation to owners, etc.
1871, 233, § 1.
1872, 309.
1879, 262.
P. S. 1, § 5.
106 Mass. 356.
115 Mass. 1.
117 Mass. 302.

SECTION 7. If the agents of the United States and the persons owning or interested in any estate which may be necessary for the public purposes mentioned in section six cannot agree upon the price to be paid for the interest of such persons therein, either party may file a petition in the superior court for the county in which such estate lies, praying for a valuation thereof. Such petition shall contain a description of the premises to which it relates; and the court, after notice to all parties interested, shall hear the parties and finally determine by a jury the value of their said estate. Such notice may be ordered by the court at any time in any county. If a person other than the owners of the fee of such estate appears and claims any interest therein, the value to the owners of the fee and to all other persons interested shall be ascertained and apportioned in the manner provided for the assessment of damages in section twenty-two of chapter forty-eight. If the value so determined, with costs and reasonable expenses to be taxed by the court, is, within one month after final judgment, paid or tendered to said owners or persons interested, or in case of their neglect or refusal to receive the same, if it is paid into the treasury of the commonwealth for their use and subject to their order, the fee of said estate shall thereupon vest in the United States.

Conveyance to the United States of land owned by the commonwealth.
1880, 184.
P. S. 1, § 7.

SECTION 8. The board of harbor and land commissioners, with the approval of the governor and council, may, upon the application of an agent of the United States, in the name and behalf of the commonwealth, convey to the United States the title of the commonwealth to any tracts of land covered by navigable waters and necessary for the purpose of erecting lighthouses, beacon lights, range lights, or other aids to navigation, or light keepers' dwellings; but such title shall revert to the commonwealth if such land ceases to be used for such purposes.

Officers of coast survey may enter on land, etc.
1845, 192, § 1.
G. S. 1, § 4.
P. S. 1, § 8.
U. S. Rev. Sts., § 4681.

SECTION 9. Persons employed on the coast survey, under the authority of the United States, may enter upon land within this commonwealth when it may be necessary for the purposes of said survey, and may erect works, stations, buildings and appurtenances requisite for that purpose, if they do no unnecessary injury.

County commissioners to assess damages.
1845, 192, §§ 2, 3.
G. S. 1, § 5.
P. S. 1, § 9.

SECTION 10. If the parties interested cannot agree upon the amount to be paid for damages caused thereby, either of them may petition the county commissioners for the county in which the land lies, who shall appoint a time for a hearing as soon as may be and,

after at least fourteen days' notice to all persons interested, hear the parties and assess the damages.

Commissioners to file a report. Appeal. Trial. 1845, 192, § 4. G. S. 1, § 6. P. S. 1, § 10.

SECTION 11. The county commissioners shall file in the office of the clerk of the courts, or, in the county of Suffolk in the office of the clerk of the superior court for civil business, a report of their doings, which shall be conclusive unless one of the parties, within sixty days after the filing thereof, files a petition for a trial; in which case, after notice to the opposite party, a trial shall be had in said court.

Tender of amends. Costs after refusal. 1845, 192, § 5. G. S. 1, § 7. P. S. 1, § 11.

SECTION 12. The person so entering upon land may make to the person injured a tender of damages therefor; and if the damages finally assessed do not exceed the amount tendered, the defendant shall recover costs; otherwise the plaintiff shall recover costs.

Penalty for injury to signals, etc. 1845, 192, § 7. G. S. 1, § 9. P. S. 1, § 13.

SECTION 13. Whoever wilfully injures, defaces or removes a signal, monument, building or appurtenance thereto, erected, used or constructed under the authority of the United States shall for each offence be punished by a fine of fifty dollars and shall be liable to the United States for all damages so sustained, to be recovered in an action of tort.

CHAPTER 2.

OF THE ARMS AND THE GREAT SEAL OF THE COMMONWEALTH.

Arms of the commonwealth. 1885, 288, § 2. Quincy, 468.

SECTION 1. The arms of the commonwealth shall consist of a shield having a blue field or surface with an Indian thereon, dressed in a shirt and moccasins, holding in his right hand a bow, and in his left hand an arrow, point downward, all of gold; and, in the upper corner of the field, above his right arm, a silver star with five points. The crest shall be a wreath of blue and gold, whereon, in gold, shall be a right arm, bent at the elbow, clothed and ruffled, with the hand grasping a broadsword. The motto shall be "Ense petit placidam sub libertate quietem."

Official representation. 1898, 519.

SECTION 2. The coat-of-arms as drawn and emblazoned under the direction of the secretary of the commonwealth in the year eighteen hundred and ninety-eight and deposited in his office shall be the official representation of the coat-of-arms of the commonwealth of Massachusetts, and all designs of said coat-of-arms for official use shall conform strictly to said representation.

Great seal of the commonwealth. 1885, 288, § 1.

SECTION 3. The great seal of the commonwealth shall be circular in form, bearing upon its face a representation of the arms of the commonwealth encircled with the inscription, "Sigillum Reipublicæ Massachusettensis." The colors of the arms shall not be an essential part of said seal, but an impression from a seal engraved according to said design, on any commission, paper or document shall be valid without the use of such colors or the representation thereof by the customary heraldic lines or marks.

Existing seal to be official. 1885, 288, § 3. 1898, 519.

SECTION 4. The seal of the commonwealth in use in the office of the secretary of the commonwealth when this act takes effect shall be the authorized seal so long as its use may be continued.

CHAPTER 3.

OF THE GENERAL COURT.

SECTIONS 1–4. — Organization of the House of Representatives.
SECTIONS 5–7. — Petitions to the General Court.
SECTIONS 8–10. — Compensation of Members.
SECTIONS 11–14. — Officers and their Compensation.
SECTIONS 15–22. — Miscellaneous Provisions.
SECTIONS 23–32. — Legislative Counsel and Agents.

ORGANIZATION OF THE HOUSE OF REPRESENTATIVES.

Secretary to make and deliver lists of persons returned. 1844, 143, §§ 4, 6. G. S. 2, § 1. P. S. 2, § 1.

SECTION 1. The secretary of the commonwealth shall receive and examine the certificates of the election of representatives to the general court returned into his office, and shall make a list of the persons therein named. On the Tuesday next preceding the first Wednesday of January in each year he shall deliver to the sergeant-at-arms a list of the persons then returned and, upon receiving any further certificates before the house of representatives is called to order, he shall immediately make and deliver to the sergeant-at-arms a list of the persons returned by such further certificates. He shall also transmit the certificates, with a list of all persons returned, to the house of representatives as soon as the members are called to order.

Persons named in lists may take seats as members. 1844, 143, § 5. G. S. 2, § 2. P. S. 2, § 2.

SECTION 2. The persons whose names are borne on the lists delivered to the sergeant-at-arms shall be admitted by him to take seats as members in the representatives' chamber on said first Wednesday of January or at any time thereafter.

When, and by whom house shall be called to order; and who shall preside. 1844, 143, § 7. G. S. 2, § 3. P. S. 2, § 3.

SECTION 3. On said first Wednesday of January, between the hours of ten in the forenoon and twelve at noon, the persons so returned and admitted as members into the representatives' chamber shall be called to order by the eldest senior member present, who shall be the presiding officer of the house until a speaker is chosen or the house otherwise determines.

Persons having certificates, etc., but not on lists, to present credentials to presiding officer. 1844, 143, § 8. G. S. 2, § 4. P. S. 2, § 4.

SECTION 4. A person having a certificate or other documentary evidence of his election as a representative whose name is not on said lists may, after the house has been called to order, present such certificate or evidence to the presiding officer, or to the speaker if one has been chosen, who shall communicate the same to the house for its action thereon; but such person shall not take a seat as a member until permitted so to do by the house.

PETITIONS TO THE GENERAL COURT.

Notice of certain petitions to be published. 1831, 43, § 1. 1832, 59. R. S. 2, §§ 7, 8. 1857, 261, §§ 1–4. G. S. 2, §§ 8–11. 1871, 381, § 11. P. S. 2, §§ 5–8. 1885, 24, § 1.

SECTION 5. Whoever intends to present to the general court a petition for the incorporation of a city or town, for the division of an existing city or town, for the incorporation of a railroad, street railway, elevated railroad or canal company or for the amendment, alteration or extension of the charter or corporate powers or privileges of any such company, whether specially incorporated or organized under general laws, or for authority to take water for a water

1890, 302.
114 Mass. 592, 599, 600.

supply, or relative to building structures over navigable or tide waters, shall give notice of such petition by publishing a copy thereof once in each of three successive weeks in such newspaper or newspapers as the secretary of the commonwealth, having regard to the locality of the interests involved in such petition, shall direct; the last publication to be made at least fourteen days before the session at which the petition is to be presented.

Notice of petitions for incorporation of educational institutions.
1896, 381, § 1.

SECTION 6. Whoever intends to present to the general court a petition for the incorporation of a college, university or other educational institution, with power to grant degrees, or for such an amendment to the charter of an existing educational institution as will give to it power to grant degrees shall give notice of such petition by publishing a copy thereof, in the manner required in section five, in such newspaper or newspapers as the secretary of the board of education shall direct.

Deposit of petitions.
1857, 261, § 5.
G. S. 2, § 12.
1862, 91, § 3.
P. S. 2, §§ 9–14.
1885, 24, § 2.
1896, 381, § 2.

SECTION 7. On or before the first day of January, a petition described in section five shall be deposited in the office of the secretary of the commonwealth and a petition described in section six shall be deposited in the office of the secretary of the board of education, with proof of publication satisfactory to the secretary with whom it is so deposited, and he shall transmit it to the general court during the first week of the session with an endorsement that the required publication has been made.

COMPENSATION OF MEMBERS.

Compensation of members of the general court.
1858, 2, §§ 1, 3.
G. S. 2, §§ 13, 15.
1861, 160.
1865, 228.
1871, 190.
1875, 48.
1876, 28, § 1.
1879, 78, § 1.
P. S. 2, § 15.
1884, 319.

SECTION 8. Each member of the general court shall receive seven hundred and fifty dollars for the regular annual session for which he is elected, and two dollars for every mile of ordinary travelling distance from his place of abode to the place of the sitting of the general court. The president of the senate and the speaker of the house of representatives shall each receive double the compensation of other members, and two dollars for every mile of ordinary travelling distance as aforesaid.

1886, 352. 1892, 59, § 4. 1894, 359. [1 Op. A. G. 42.]

— of members chosen to fill vacancies, or who resign.
1872, 328, § 1.
1879, 78, § 11.
P. S. 2, § 16.

SECTION 9. Each member of the general court chosen to fill a vacancy, or who resigns his seat during the session, shall be entitled to a per diem compensation, for the time of his membership, at the rate of seven hundred and fifty dollars for the session, and his mileage as above provided.

Members may draw one hundred dollars monthly.
G. S. 2, § 13.
1872, 328, § 2.
1880, 212, § 4.

SECTION 10. Each member of the general court shall be entitled to be paid one hundred dollars on account at the end of each month; but such monthly payments shall not exceed, in the aggregate, the compensation of the member for the annual session. P. S. 2, § 20.

OFFICERS AND THEIR COMPENSATION.

Salary of clerks.
Tenure of office.
1844, 143, § 9.
1858, 2, § 5.
G. S. 2, §§ 5, 17.

SECTION 11. The clerk of the senate and the clerk of the house of representatives shall each receive an annual salary of three thousand dollars, and each shall hold office until his successor is chosen and qualified. 1867, 167, 305. 1868, 37. 1873, 377, § 2. 1879, 78, § 2. 1880, 253. P. S. 2, §§ 21, 25. 1884, 329.

SECTION 12. The clerk of the senate and the clerk of the house of representatives, subject to the approval of the senate and house respectively, may each appoint an assistant clerk who, in the absence of the clerk, shall perform the duties of the clerk unless a clerk pro tempore is chosen. Each clerk may remove the assistant clerk appointed by him. Each clerk may also employ necessary clerical assistance at an expense of not more than fifteen hundred dollars a year.

Assistant clerks; clerical assistance. 1844, 143, § 10. G. S. 2, § 6. P. S. 2, § 26. 1888, 1. 1899, 100.

SECTION 13. The assistant clerk of the senate and the assistant clerk of the house of representatives shall each receive an annual salary of two thousand dollars.

1882, 257, § 1. 1884, 334. 1894, 394.

Salary of assistant clerks. 1873, 372, §§ 3, 4. 1879, 78, § 3. 1880, 253. P. S. 2, § 22.

SECTION 14. The chaplain of the senate and the chaplain of the house of representatives shall each receive an annual salary of three hundred dollars. P. S. 2, § 23.

—of chaplains. 1858, 2, § 6. G. S. 2, § 18. 1872, 7. 1879, 78, § 8; 304.

MISCELLANEOUS PROVISIONS.

SECTION 15. The journals, files and papers of the senate and of the house of representatives shall be in the custody of their respective clerks during each political year, and thereafter in the custody of the secretary of the commonwealth. The clerk of each branch, during his term of office, shall at all times have access to the same. Copies of such journals, files and papers, certified by the clerk of the branch to which they originally appertained or by the secretary of the commonwealth, shall be evidence in like manner as the originals.

Custody of journals, etc., of senate and house. 1844, 153. G. S. 2, § 21. Res. 1876, 24. P. S. 2, § 28.

SECTION 16. Senators and representatives, acting as members of a committee of the general court, may administer oaths to persons examined before such committee.

1825, 90. R. S. 2, § 10. G. S. 2, § 20. P. S. 2, § 29.

Members of committees may administer oaths.

SECTION 17. A person shall not be excused from attending and testifying before either branch of the general court or before a committee thereof upon a subject referred to such committee on the ground that his testimony or evidence, documentary or otherwise, may tend to criminate him or subject him to a penalty or forfeiture, but he shall not be prosecuted or subjected to a penalty or forfeiture for or on account of any action, matter or thing concerning which he may so testify or produce evidence, except for perjury committed in such testimony; and this exception shall not apply to an official paper or record so produced by him.

Testimony before general court, or committee thereof. 1878, 51. P. S. 2, § 30. 107 Mass. 172. 142 U. S. 547. 161 U. S. 591.

SECTION 18. Stenographic reports of committee hearings shall, at the end of the session at which the hearings were authorized, be deposited in the state library, but such reports of hearings held during a recess shall be so deposited before the next general court convenes.

Deposit of stenographic reports. 1897, 113.

SECTION 19. Bills and resolves which have been passed to be engrossed shall, under the direction of the secretary of the common-

Bills and resolves to be engrossed on

parchment, bound, etc. 1826, 37. R. S. 13, § 6. 1836, 24. G. S. 2, § 22. 1877, 201. P. S. 2, § 31. 1901, 191.

wealth, be fairly engrossed on parchment in a plain and legible hand-writing, without interlineation, and with a margin of not less than one inch on each side. Each sheet on which bills are engrossed shall be eighteen inches long and thirteen inches wide, and each sheet on which resolves are engrossed shall be fifteen inches long and ten inches wide. The secretary shall cause the acts and resolves of each session to be neatly and strongly bound in separate volumes of convenient size and lettered on the back with a designation of the contents and the legislative year. If such original engrossed acts or resolves are becoming illegible, the secretary shall cause parchment copies thereof, similar to the originals, to be engrossed, and shall attest them. Such attested copies shall have the same force and effect as the originals.

Proposed amendments to constitution to be engrossed on parchment. Amend. const., art. 9. 1865, 156. P. S. 2, § 32.

SECTION 20. All proposed amendments to the constitution, which have been agreed to by the general court in the manner prescribed in the constitution, shall be engrossed on parchment, signed by the presiding officer of each branch and deposited in the office of the secretary of the commonwealth.

Members of general court ineligible to certain offices. 1857, 191. G. S. 2, § 23.

SECTION 21. No member of the general court shall, during the term for which he is elected, be eligible to any office under the authority of the commonwealth created during such term, except an office to be filled by vote of the people.

P. S. 2, § 33. 1 Allen, 552. [1 Op. A. G. 347.]

General court to suspend business on holidays.

SECTION 22. The general court shall hold no session for the transaction of ordinary business on a legal holiday.

1856, 113, § 1. G. S. 2, § 24. P. S. 2, § 34.

LEGISLATIVE COUNSEL AND AGENTS.

Names of legislative counsel and agents to be entered on a docket. 1890, 456, § 1. 1891, 223, § 1. [1 Op. A. G. 311.]

SECTION 23. A person, corporation or association employing or agreeing to employ a person to act as counsel or agent to promote or oppose, directly or indirectly, legislation by the general court, or to act as a legislative counsel or agent in connection therewith, shall, within one week after such employment or agreement, cause the name of such counsel or agent to be entered upon a docket as hereinafter provided; and such counsel or agent shall also enter his name upon such docket. Upon the termination of such employment such fact may be entered opposite to the name of such counsel or agent either by him or by his employer.

Termination of employment.

Sergeant-at-arms to keep dockets of legislative counsel and agents. 1890, 456, § 2. 1891, 223, § 2. [1 Op. A. G. 311.]

SECTION 24. The sergeant-at-arms shall prepare and keep a docket of legislative counsel in which shall be entered the names of counsel employed to appear at any public hearing before committees of the general court and the names of all counsel of persons, corporations or associations who act or advise in relation to legislation. He shall also prepare and keep a docket of legislative agents in which shall be entered the names of agents employed in connection with legislation and of persons employed for other purposes who render any services as such agents. Such entries shall include the name and business address of the employer, the name, residence and occupation of the person employed, the date of the employment or agreement therefor, the duration of the em-

Entries to include name, address, etc.

ployment, if it can be determined, and the special subjects of legislation, if any, to which the employment relates.

Subjects of legislation to be specified on dockets. 1890, 456, § 3. 1891, 223, § 2.

SECTION 25. A person, corporation or association employing any legislative counsel or agent shall, from time to time, as subjects of legislation are introduced which such counsel or agent is to promote or oppose, make additional entries under his or its name, in the appropriate docket, stating such special employment and specifically referring to the petitions, orders, bills or other subjects of legislation to which it relates. Such entries shall also be made opposite the names of such counsel or agent so that the entries opposite the name of an employer shall show all the subjects of legislation relative to which any counsel or agent is employed by him, and so that the entries opposite the name of every person employed shall show all the subjects of legislation with reference to which he is employed. No legislative committee shall allow a person to appear as counsel before it in respect to any legislation not described in the docket of legislative counsel against his name.

Compensation not to be contingent upon action of general court. 1890, 456, § 3. 1891, 223, § 2.

SECTION 26. No person shall be employed as a legislative counsel or agent for a compensation dependent upon the passage or rejection of proposed legislation or upon any other contingency connected with the action of the general court or of either branch or of a committee thereof. A person whose name is entered upon the docket of legislative counsel shall not render service as legislative counsel or agent, otherwise than by appearing before a committee and by doing work properly incident thereto or by giving legal advice as regular legal counsel of corporations or associations, unless his name is also entered upon the docket of legislative agents.

Written authority to be filed with sergeant-at-arms. 1895, 410. 1896, 342, § 1.

SECTION 27. Every legislative counsel or agent shall, within ten days after entering his name upon a docket as hereinbefore provided, file with the sergeant-at-arms a written authority to act as such counsel or agent, signed by the person, corporation or association for whom or for which he assumes to act. Whoever fails to comply with the provisions of this section shall be punished by a fine of not more than one thousand dollars or shall be declared by the court trying the case to be disqualified from acting as legislative counsel or agent for three years, or be punished by both such fine and disqualification.

Penalty. 1896, 342, § 2.

Proceedings for disbarment. 1890, 456, § 4.

SECTION 28. The general court may, upon cause shown therefor, disbar a person from acting as a legislative counsel or agent; but a person against whom proceedings are brought for disbarment shall be allowed a hearing before a committee or otherwise as the general court may determine. No person who has been disbarred shall be employed as legislative counsel or agent within three years after his disbarment.

Opening, closing, and disposition of legislative dockets. 1890, 456, § 5. 1894, 298.

SECTION 29. The dockets of legislative counsel and agents for each year shall be closed upon the prorogation of the general court, and the dockets for the ensuing year shall then be opened. Within thirty days after such prorogation, the sergeant-at-arms shall deposit

in the office of the secretary of the commonwealth the dockets which have been so closed.

Employers to file statement of expenses with secretary of the commonwealth. 1890, 456, § 6. 1891, 223, § 2.

SECTION 30. Within thirty days after the prorogation of the general court, every person, corporation or association whose name appears upon the dockets so closed, as employers of any legislative counsel or agent, shall render to the secretary of the commonwealth a complete and detailed statement, under oath, of all expenses incurred or paid in connection with the employment of legislative counsel or agents, or with promoting or opposing legislation. Such statements shall be in such form as the secretary of the commonwealth may prescribe and shall be open to public inspection.

Penalties. 1890, 456, § 7. 1896, 342, § 3.

SECTION 31. Whoever violates any provision of sections twenty-three, twenty-five, twenty-six and thirty shall, for each offence, be punished by a fine of not less than one hundred nor more than one thousand dollars. Any person acting as legislative counsel or agent contrary to the provisions of sections twenty-three, twenty-five and twenty-six shall, in addition to such fine, be disbarred from acting as legislative counsel or agent for three years from the date of such conviction. The attorney general shall cause prosecutions to be instituted for the violation of the provisions of sections twenty-three, twenty-five to twenty-seven, inclusive, twenty-nine and thirty.

Certain sections not to apply to city or town solicitors. 1890, 456, § 8.

SECTION 32. Sections twenty-three to thirty-one, inclusive, shall not apply to the employment by a city or town of its solicitor to represent it in any legislative proceeding.

CHAPTER 4.

OF THE GOVERNOR, LIEUTENANT GOVERNOR AND COUNCIL.

Salary of governor. 1780, 5. 1788, 57.

SECTION 1. The governor shall receive an annual salary of eight thousand dollars, and shall not be entitled to any fees or perquisites.

1818, 88. 1843, 9, § 1. G. S. 14, § 1. 1879, 35, § 1. 1884, 328.
R. S. 13, §§ 1, 2. 1854, 308, § 1. 1864, 240. P. S. 15, § 1. 1892, 101.

— of lieutenant governor. 1818, 97, § 1. R. S. 13, § 3. 1843, 9, § 1. 1858, 78, § 3. G. S. 14, § 2.

SECTION 2. The lieutenant governor shall receive an annual salary of two thousand dollars; but if the office of governor shall be vacant for a period of more than thirty days he shall, for the time during which he performs the duties of governor, receive at the rate allowed to the governor.

1872, 328. 1876, 214. 1879, 35, § 2. P. S. 15, § 2. 1896, 347.

— of members of council. 1858, 78, § 1. G. S. 14, § 2.

SECTION 3. Each member of the council shall receive an annual salary of eight hundred dollars.

1872, 328, § 3. 1876, 214. 1879, 35, § 2. P. S. 15, § 3.

Travelling expenses of lieutenant governor and council. 1858, 78, §§ 2, 3. 1859, 7. G. S. 14, § 2. 1872, 328, § 3.

SECTION 4. The lieutenant governor and each member of the council shall be paid for his travel from his abode to the place of sitting of the governor and council, and return, such amounts as he certifies in writing that he has actually expended therefor in the performance of his official duties.

1875, 48, § 2. 1876, 214. 1879, 35, § 3. P. S. 15, § 4.

SECTION 5. The governor may appoint a private secretary who shall hold office during the pleasure of the governor and shall receive an annual salary of twenty-five hundred dollars. 1876, 214, § 3. 1879, 35, § 4. P. S. 15, § 5. 1885, 77. 1891, 411, § 1.

Governor's private secretary. Res. 1861, 1. 1866, 298, § 4. 1872, 328, § 1.

SECTION 6. The governor, with the advice and consent of the council, may appoint an executive secretary and a messenger, each of whom shall hold office during the pleasure of the governor and council and shall perform the duties required of him by the governor or by the governor and council. The executive secretary shall receive an annual salary of two thousand dollars and the messenger an annual salary of twelve hundred dollars. 1887, 83, 221. 1891, 411, § 2. 1891, 429. 1898, 104.

Executive secretary and messenger. 1845, 116. 1847, 237. G. S. 15, §§ 63, 64. 1866, 298, § 4. 1867, 167, § 7. 1876, 214, § 3. 1881, 147. P. S. 15, § 6. 1884, 8, 38.

SECTION 7. The governor, with the advice and consent of the council, may appoint a stenographer for the executive department who shall hold office during the pleasure of the governor and shall receive such compensation for his services, not exceeding fifteen hundred dollars a year, as the governor and council determine.

Executive stenographer. 1892, 16. 1897, 188.

SECTION 8. An amount not exceeding three thousand dollars shall be allowed annually by the commonwealth for the expenses of the executive department. 1879, 208. P. S. 15, § 7.

Incidental expenses of executive department. 1870, 250.

SECTION 9. An amount not exceeding twenty thousand dollars shall be appropriated each year for carrying out the provisions of sections one hundred and twenty to one hundred and twenty-seven, inclusive, of chapter sixteen, for the entertainment of the president of the United States and other distinguished guests while visiting or passing through this commonwealth and for extraordinary expenses, not otherwise provided for, which the governor and council may deem necessary.

Extraordinary expenses of executive. 1890, 415.

SECTION 10. The governor and council shall co-operate in behalf of the commonwealth in all scientific surveys made by the United States government of harbors, rivers, shores or waters within the commonwealth, and shall represent the commonwealth in relation to such surveys, and protect its interests therein.

Governor and council to represent the commonwealth in government surveys. P. S. 15, § 8.

SECTION 11. The governor may appoint state officers as delegates to represent the commonwealth at such conventions as may be held in any part of the United States for the purpose of considering questions of charity, reform, statistics, insurance and other matters affecting the welfare of the people. The necessary expenses of such delegates may be paid from such appropriations as the general court shall make from year to year for the travelling and contingent expenses of such officers.

Delegates to conventions. 1894, 376.

CHAPTER 5.

OF THE SECRETARY OF THE COMMONWEALTH.

Salary and bond of secretary.
1818, 97.
R. S. 13, §§ 9, 11.
1843, 9, § 1.
1854, 131.
1859, 221.
G. S. 14, § 3.
1864, 300.
1865, 247, § 4.
1866, 298, § 4.

SECTION 1. The secretary of the commonwealth shall receive an annual salary of thirty-five hundred dollars. He shall make a quarterly return under oath to the governor and council of all fees of office received by him, and give to the treasurer and receiver general a bond, with sureties approved by the governor and council, conditioned satisfactorily to account for all money received by him in his official capacity. 1870, 380. 1876, 218, § 1. 1879, 79, § 1. P. S. 15, § 9. 1884, 79. 1888, 385. 1892, 262, § 1.

His clerks, etc., and their salaries.
Cashier.
1820, 74.
R. S. 13, §§ 12, 13.
1837, 167.
1843, 9.
1845, 113.
1846, 217.
1853, 275.
1854, 131, § 2.
1855, 440.
1857, 269.
1859, 133, 221.
G. S. 15 § 4.
1865, 247, § 5.
1866, 298, § 5.

SECTION 2. He may employ in his office five permanent clerks; the first at a salary of twenty-five hundred dollars a year, the second at a salary of twenty-two hundred dollars a year, the chief of the archives division at a salary of two thousand dollars a year, an engrossing clerk and a corporation clerk each at a salary of fourteen hundred dollars a year. He may employ a cashier, for whose conduct he shall be accountable, and such additional clerks, messengers and other assistance as may be necessary for the despatch of public business; but no such person shall receive compensation at a rate exceeding twelve hundred dollars a year. 1873, 377, § 8. 1876, 218, § 2. 1877, 27. 1879, 79, § 2. 1881, 23, § 1. 1881, 224. P. S. 15, § 10. 1883, 48. 1884, 15, § 1. 1885, 87. 1886, 238. 1887, 26. 1889, 101. 1890, 239. 1891, 410. 1892, 262, § 1. 1893, 103, 112. 1895, 402. 1897, 351. 1900, 383.

Deputies may act, when.
1813, 49.
R. S. 13, § 8.
G. S. 14, § 5.

SECTION 3. If the secretary is disabled from performing his official duties his deputies shall perform the same during such disability or until another secretary is chosen or appointed. P. S. 15, § 11.

Custody of great seal.
R. S. 13, § 5.
G. S. 14, § 6.
P. S. 15, § 12.

SECTION 4. The secretary shall have the custody of the great seal of the commonwealth; and copies of records and papers in his department, certified by him and authenticated by said seal, shall be evidence in like manner as the originals.

— of books relating to Maine lands.
1883, 99.

SECTION 5. He shall have the custody of the books of records of grants and conveyances of land formerly held by the commonwealth and situated in the state of Maine, and of all other books and records relating to the same.

— of stereotype plates.
Res. 1879, 5.
P. S. 15, § 13.

SECTION 6. He shall have the custody of all stereotype, electrotype, steel and copper plates and of all wood cuts, owned by the commonwealth, and may dispose of them as in his judgment the best interests of the commonwealth require.

Purchase of paper.
Res. 1882, 56.
1885, 319.

SECTION 7. He shall purchase the paper which is used in the execution of the contract for state printing at the lowest market prices, and each purchase shall be subject to the approval of the governor and council. He shall furnish to the superintendent of the Massachusetts reformatory such of said paper as he may need to fill any order for printing which he may receive from any department of the state government for such printing as is not included in the contract with the state printers.

SECTION 8. He shall send by mail to every justice of the peace, special commissioner or notary public a notice of the time of the expiration of his or her commission, not more than thirty nor less than fourteen days before such expiration. Notice of expiration of commissions. 1865, 231, § 1. P. S. 15, § 14. 1899, 178, § 1.

SECTION 9. He shall annually, in January, send to the city and town clerks and registrars a list of all justices of the peace designated under the provisions of section thirty-one of chapter one hundred and fifty-one, with the dates of expiration of their commissions, and notice of any revocation of a designation. Annual list of designated justices. 1899, 387, § 4.

SECTION 10. He shall, in addition to the special reports required by law, annually in January make to the general court a report of the transactions of his department for the preceding year. He shall include therein the returns of the number of liquor licenses granted by the several cities and towns, the amount received for the same and the votes of the cities and towns on the question of granting the same; the returns by the sheriffs of the several counties, of money received by them and the number of days they have attended upon a court of record and upon the county commissioners. Annual report. 1892, 262, § 2. 1893, 148, § 1. 1896, 443, § 6.

SECTION 11. He shall annually prepare, cause to be printed and on the first Wednesday of January submit to the general court, a true abstract from the certificates required by chapter one hundred and ten to be deposited with him, a statement of the names of all corporations changed under the provisions of sections nine, ten and eleven of chapter one hundred and nine, and the names of all corporations dissolved. Abstract of certificates. 1851, 133, § 14. G. S. 61, § 13. 1870, 224, § 62. P. S. 106, § 2. 1891, 360, § 5.

CHAPTER 6.

OF THE TREASURER AND RECEIVER GENERAL, THE AUDITOR OF ACCOUNTS AND MATTERS OF FINANCE.

SECTIONS 1–12. — The Treasurer and Receiver General.
SECTIONS 13–25. — The Auditor of Accounts.
SECTIONS 26–79. — Matters of Finance.

THE TREASURER AND RECEIVER GENERAL.

SECTION 1. The treasurer and receiver general shall give a bond with at least three sureties approved by the governor and council, in the sum of one hundred thousand dollars, payable to the commonwealth, conditioned that he and all persons employed in his department shall faithfully discharge their duties and trusts; that he shall use all necessary and reasonable diligence and care in the safe keeping and lawful disposition of all money, bonds, notes, papers, books and other things pertaining to his office, which shall come to his hands or to the hands of the persons employed by him; that he shall, upon reasonable notice, render true accounts of his doings, when thereto required by law or by the senate or house of representatives; that he shall deliver over to his successor in office or to such other person as may be authorized to receive Treasurer to give bond. 1789, 15. 1791, 59, § 1. R. S. 13, § 14. G. S. 15, § 9. P. S. 16, § 14.

the same, all money, bonds, notes, papers, books and other things belonging to said office; and that all balances and defalcations which shall appear against him shall be forthwith paid by him into the treasury of the commonwealth.

Bond, place of deposit and suit on.
1791, 59, § 4.
R. S. 13, § 15.
G. S. 15, § 10.
P. S. 16, § 15.

SECTION 2. The bond shall be deposited in the office of the secretary of the commonwealth, and, upon the order of the governor with the advice and consent of the council, or upon the order of the general court, the attorney general, or any other person by them authorized for that purpose, shall commence an action thereon and prosecute it to final judgment, execution and satisfaction.

Removal of treasurer.
Amend. const., art. 17.
1791, 59, § 2.
R. S. 13, § 16.
G. S. 15, § 11.
P. S. 16, § 16.

SECTION 3. If any person represents under oath that the treasurer is insane or manifestly insolvent, or has absconded or concealed himself, or is absent from the commonwealth or from the duties of his office to the hazard of the public treasury, the governor, with the advice and consent of the council, if upon examination such representation appears to be true, may designate the chief clerk in the office of the treasurer and receiver general, upon his giving a bond to the commonwealth for the faithful performance of his duties, in a sum and with sureties approved by them, to perform the duties of the office until the governor, with the advice and consent of the council, otherwise orders.

Treasurer's salary; clerks and their salaries.
1818, 97, § 1.
1820, 74.
R. S. 13, §§ 20-22.
1837, 167.
1843, 9.
1845, 105.
1847, 209.
1854, 131, §§ 1, 2.
1855, 440, § 1.
1857, 279, § 1.
G. S. 15, § 12.
1864, 300.
1865, 247, §§ 1, 5.
1866, 298, §§ 1, 5.
1869, 454.
1870, 317.
1871, 383.
1872, 204.
1876, 154.
1879, 80, §§ 1, 2.
1881, 254.
P. S. 16, § 17.
1882, 111.
1883, 164.
1885, 15, 263.
1886, 38, 334.
1889, 349.

SECTION 4. The treasurer and receiver general shall receive an annual salary of five thousand dollars. He may employ in his department a chief clerk at a salary of twenty-six hundred dollars a year; a second clerk or book-keeper at a salary of twenty-one hundred dollars a year; a third or interest clerk at a salary of sixteen hundred dollars a year; a receiving teller and a paying teller, each at a salary of eighteen hundred dollars a year; an assistant paying teller at a salary of one thousand dollars a year; a cashier at a salary of twenty-two hundred dollars a year; an assistant book-keeper at a salary of twelve hundred dollars a year; a fund clerk at a salary of fifteen hundred dollars a year; a warrant clerk at a salary of twelve hundred dollars a year; a files clerk at a salary of nine hundred dollars a year; a legacy tax clerk at a salary of nineteen hundred dollars a year; a stenographer at a salary of nine hundred dollars a year; and a messenger at a salary of nine hundred dollars a year. He may also annually expend not more than thirty-five hundred dollars for other necessary clerical assistance. 1895, 276, 392. 1896, 326. 1897, 256. 1901, 211.

Additional clerical assistance.
1893, 432.

SECTION 5. He may annually expend not more than one thousand dollars for extra clerical assistance in the assessment and collection of taxes on collateral legacies and successions.

Assessment of trust funds.
1891, 233.
1901, 281.

SECTION 6. The treasurer and receiver general shall annually certify to the tax commissioner the average deposits of every corporation or organization which is required by law to make deposits in trust with the treasurer and receiver general, and the tax commissioner shall annually assess upon every such corporation or organization one-twentieth of one per cent of its average deposits for the year last preceding such assessment. Such assessment shall be collected in the same manner as taxes upon corporations.

SECTION 7. He may receive from the United States all sums of money which may, by any act of congress, be authorized to be paid for the benefit of the Massachusetts soldiers' home; and shall pay them over to the treasurer of said soldiers' home, or to any persons authorized to receive the same, without any appropriation therefor.

To receive appropriations for soldiers' home. 1890, 373.

SECTION 8. He shall annually, on the first Monday of May, transmit to the attorney general an account of bonds, notes and securities in the treasury in which the commonwealth is interested and on which the principal or interest remains due and unpaid or of which the conditions have not been performed, classifying them under distinct heads.

Transmission to attorney general of account of overdue money and bonds. 1834, 199. R. S. 13, § 25. G. S. 15, § 17. P. S. 16, § 21.

SECTION 9. He shall annually, in January, report to the general court a statement of the transactions of his department for the preceding year, including a specific statement of all warrants remaining unpaid and of the names of the persons in whose favor they are drawn.

Treasurer's annual report. 1858, 1, § 4. G. S. 15, § 19. P. S. 16, § 22.

SECTION 10. Upon a vacancy in the office, the secretary, with two suitable persons appointed by warrant under the hand and seal of the governor, shall, after notice to the late treasurer, or to his heirs, executors or administrators, if deceased, and to his sureties or one of them, or to such of said persons as may be found within the commonwealth, seal up and secure, in their presence if they attend, all such money, papers and other things supposed to be the property of the commonwealth; and they shall give such representatives or sureties, if required by them so to do, a true list of all packages so sealed up and of the places where they are deposited.

Provision for care of funds on death of treasurer, etc. 1791, 59, § 3. R. S. 13, § 17. G. S. 15, § 20. P. S. 16, § 23.

SECTION 11. As soon thereafter as may be, and after like notice, the secretary and the two persons so appointed shall cause the packages to be examined, and a true inventory taken of the money and of all bonds, notes, securities, books and such other things pertaining to said office as shall be required by the late treasurer or by his representatives or sureties. A copy of such inventory shall be deposited in the secretary's office, and copies shall be given on request to any of said persons. The secretary and said two persons shall safely keep all property so inventoried until a treasurer is chosen or appointed, to whom, when qualified, they shall deliver the same, taking duplicate receipts from him therefor, one of which shall be deposited with the secretary and the other with the late treasurer or his legal representatives or sureties.

Inventory of money, etc., to be taken. 1791, 59, § 3. R. S. 13, § 18. G. S. 15, § 21. P. S. 16, § 24.

SECTION 12. Upon the election or appointment of a new treasurer, he shall give duplicate receipts for all property of the commonwealth transmitted to him, one of which shall be deposited with the secretary; and such receipts shall be sufficient evidence for his predecessor of the delivery of said property and shall be his sufficient discharge therefor.

Duplicate receipts by new treasurer. 1791, 59, § 3. R. S. 13, § 19. G. S. 15, § 22. P. S. 16, § 25.

THE AUDITOR OF ACCOUNTS.

Auditor to give bond.
1849, 56, § 1.
G. S. 15, § 1.
1867, 178, § 1.
P. S. 16, § 1.

SECTION 13. The auditor shall give to the treasurer and receiver general a bond for the faithful performance of his official duties, in a penal sum and with sureties approved by the governor and council.

Auditor's salary; clerks and their salaries.
1849, 56, § 6.
1851, 239.
1852, 318.
1854, 131, §§ 1, 2.
1855, 440.
G. S. 15, § 2.
1862, 177.
1864, 300.
1865, 247, §§ 2, 5.
1866, 101; 208, §§ 2, 5.
1867, 167, § 6; 178, § 2.
1870, 380.
1871, 383.
1873, 377.
1876, 156.
1879, 81.
1881, 254.
P. S. 16, § 2.
1885, 195.
1887, 30.
1888, 432.
1889, 70.
1891, 375.
1894, 397.
1898, 521.
1899, 151.
1900, 217.
1901, 157.

SECTION 14. He shall receive an annual salary of thirty-five hundred dollars. He may employ in his office one clerk at a salary of twenty-five hundred dollars a year, one clerk at a salary of twenty-two hundred dollars a year, three clerks at a salary of fifteen hundred dollars a year each and a messenger at a salary of not more than nine hundred dollars a year. He may also employ such additional clerical assistance as may be necessary at an expense not exceeding three thousand dollars a year. If, by reason of sickness, absence or other cause, the auditor is temporarily unable to perform the duties of his office, the first clerk in his office shall act as his deputy and perform the duties of the auditor until such disability ceases.

Duties of auditor.
1849, 56, § 2.
1858, 11, § 7; 158, § 13.
1859, 221, § 2.
G. S. 15, §§ 3, 4.
1867, 178, §§ 3, 4.
P. S. 16, § 3.
13 Allen, 503.

SECTION 15. He shall examine all accounts and demands against the commonwealth, excepting those for the salaries of the governor and of the justices of the supreme judicial court, those due on account of the principal or interest of a public debt, or of the pay rolls of the executive council, the senate or the house of representatives. He may require affidavits that articles have been furnished, services rendered and expenses incurred, as claimed. Such affidavit for any state institution may be made by the disbursing officer thereof. The auditor shall in all cases make a certificate specifying the amount due and allowed on each demand, the name of the person to whom such amount is payable, the law authorizing the same and the head of expenditure to which it is chargeable. If the general court, by express statute, authorizes a board or public officer to approve demands against the commonwealth, and an appropriation therefor has been made, the auditor shall, when such demands have been properly approved, promptly audit and certify such an amount, not exceeding the appropriation for that purpose, as he may deem correct; and if it appears to him that there are improper charges in said accounts, he shall report the same to the governor and council, with a separate certificate therefor. He shall retain in his office copies of all such certificates and transmit the originals to the governor, who, with the advice and consent of the council, may issue his warrant to the treasurer and receiver general for the amount therein specified as due.

Accounts of institutions to be kept under direction of the auditor.
1887, 87, §§ 1, 3.

SECTION 16. The accounts of all state, penal and charitable institutions, and all other public institutions, for the support of which appropriations are annually made, shall be kept at such institutions under the direction of the auditor, and shall be as nearly uniform as the nature of the institutions will permit.

SECTION 17. The auditor shall prescribe the number and form of all analytical or subsidiary accounts, which shall be made from the accounts of record kept at each institution. Such accounts shall also show the expenditures, and the estimated cash value of the products of the department of the institution to which it relates, whether sold or applied to the use of the institution, and also as nearly as may be the value of the labor of the inmates entering into such production. The accounts shall, at all times, show the financial condition of the institution; but no inventory shall be required, unless provided by law. The auditor may expend such amount as may be necessary to comply with the requirements of this and the preceding section.

Auditor to prescribe form of accounts.
1887, 87, §§ 2, 4, 5.

SECTION 18. The auditor shall cause all the printing under the state printing contract to be examined and measured, and no bill for printing shall be allowed unless it is in strict conformity with such contract. He may employ an expert in printing at a salary of fifteen hundred dollars a year, who shall examine the bills for printing under the state printing contract, and perform such other clerical assistance as the auditor may require.

Measurement of state printing.
1893, 287.
1896, 248.

SECTION 19. All original bills and vouchers on which money has been or may be paid from the treasury upon the certificate of the auditor or the warrant of the governor shall be kept in the auditor's department; and all boards, commissions or public officers authorized to make contracts under which money may be payable from the treasury shall file with the auditor certified copies thereof.

Bills, etc., to be deposited with auditor.
1867, 178, § 4.
1878, 187, § 1.
P. S. 16, § 4.

SECTION 20. The auditor shall keep a distinct account of all public receipts and expenditures under appropriate heads. He shall keep a like account of the school fund and of other public property and of all debts and obligations due to and from the commonwealth; and for such purpose he shall have free access to the books and papers of the several departments, boards and institutions.

Auditor to keep accounts, etc.
1849, 56, § 3.
G. S. 15, § 4.
1867, 178, § 5.
P. S. 16, § 5.

SECTION 21. He shall annually in January examine the books, accounts and vouchers of the treasurer and receiver general; and his own books and accounts shall be subject at any time to such examination as the governor and council or the general court may order. He shall comply with any regulations relative to the duties of his office which may be made in writing by the governor and council, and not inconsistent with the provisions of this chapter.

Annual examination of books, etc., of treasurer and auditor.
1849, 56, §§ 4, 5, 7.
G. S. 15, §§ 7, 8.
1867, 178, § 6.
P. S. 16, § 6.

SECTION 22. He shall annually, on or before the thirtieth day of January, submit to the general court an abstract of his report, in print or otherwise, exhibiting a full and accurate statement of the financial condition and transactions of the commonwealth for the preceding year, and as soon as may be thereafter he shall submit, in print, his report in detail.

Auditor's annual report.
1849, 56, § 4.
G. S. 15, § 5.
1867, 178, § 7.
P. S. 16, § 7.
1884, 207.

SECTION 23. Such report shall contain a summary statement of the receipts into, and payments from, the treasury of the commonwealth for the preceding year; a detailed statement of such

Same subject.
1858, 158, §§ 2, 5.
1867, 178, §§ 8, 10.
P. S. 16, §§ 8, 10.

receipts and expenditures including the expense incurred for the support of all permanent departments, services and institutions; and all exceptional and special charges incurred for articles purchased. The account shall be so constructed as to show the expenses which have been actually incurred within the year, whether paid or unpaid at the end of the year. It shall include all items of accounts of expenditure, useful or interesting to the people of the commonwealth; and, as far as may be, shall show the different officers or boards under whose direction the expenditure was made and the different officers who have received salaries or other general charges; and no expenditure exceeding five hundred dollars, including separate items, shall be classified under an indefinite head.

Auditor's annual report.
1858, 158, §§ 4, 6, 8, 9.
1867, 178, §§ 9, 11, 13.
P. S. 16, §§ 9, 11, 13.

SECTION 24. The report shall show the aggregate amount of funded debt and of all temporary loans at the beginning and end of the year respectively and the balance of increase or decrease in each case, and state the cause of such increase or decrease. It shall state whether or not the ordinary expenses of the year have exceeded the income, and show the amount of the balance. It shall contain a particular statement of all transactions affecting the funds belonging to or held in trust by the commonwealth, including new investments of any portion of the same made during the preceding year, and also of the manner in which the moiety of the income of the school fund applicable to educational purposes has been disbursed. The auditor shall estimate the value of railroad shares and other securities at their market value at the time of making his report.

Same subject.
1849, 56, § 4.
Res. 1856, 74.
1858, 158, § 1.
G. S. 15, § 6.
1867, 178, § 12.
P. S. 16, § 12.

SECTION 25. Such report shall include an estimate, for the current year, of the ordinary and other revenue of the commonwealth and of the expenses of the departments, boards and commissions and of all other persons acting under the authority of the commonwealth. Such expenses shall be provided for by annual appropriations.

MATTERS OF FINANCE.

Annual estimates of appropriations.
Res. 1856, 74.
1858, 158, § 1.
G. S. 15, § 28.
1872, 349.
1880, 160, § 1.
P. S. 16, § 26.
1885, 41.

SECTION 26. Every officer or board having charge of any department requiring an expenditure of money from the treasury of the commonwealth, except for the payment of salaries, shall annually, on or before the fifteenth day of December, submit to the auditor of accounts estimates in detail and in tabular form showing the amounts appropriated for the current year and the amounts required for the ensuing year, with an explanation of the necessity of any new or increased or decreased expenditures, and citations of the statutes relating thereto. The auditor shall embody such estimates, with those for his own department, in one document, which shall be printed and laid before the general court on the second Wednesday of the succeeding January.

Annual reports of expenditures.
1859, 221, § 2.
G. S. 15, § 29.
P. S. 16, § 27.

SECTION 27. Every officer or board having the disbursement of money appropriated from the ordinary revenue or from the income of any funds belonging to or under the charge of the commonwealth shall annually in the first week of January report in detail to the auditor, in such form as he shall prescribe, all purposes for which expenditures have been made by such officer or board and the amount expended therefor.

SECTION 28. Except as hereinafter provided, no money shall be paid from the treasury without a warrant from the governor drawn in accordance with an appropriation in some act or resolve of the same or of the preceding year after the demand or account to be paid has been certified by the auditor; but the principal and interest on all public debts shall be paid when due without any warrant, and the governor may, without an appropriation, draw his warrant for the payment of his own salary and the salaries of the justices of the supreme judicial court, for the payments required to be made from the income of the school fund, and for repayments required by section sixty-eight of chapter fourteen. No certificate shall be required from the auditor for payment of the pay rolls of the members of the council and general court.

Payments from the treasury regulated. Const., pt. 2, c. 2, § 1, art. 11. 1849, 56, § 2. Res. 1856, 74. 1858, 1, § 1. G. S. 15, § 30. 1867, 178, § 4. P. S. 16, § 28. 13 Allen, 593.

SECTION 29. No account against the commonwealth shall be allowed or paid unless authority to contract the same was given by the general court or by either branch thereof nor unless the items thereof are specified.

Itemized bills. 1852, 33, § 1. Res. 1856, 74. G. S. 15, § 49. P. S. 16, § 32.

SECTION 30. No account or demand requiring the certificate of the auditor or warrant of the governor shall be paid from an appropriation unless it has been authorized and approved by the head of the department or board for which it was contracted; nor shall any appropriation be used for expenses, except gratuities and special allowances by the general court, unless full and properly approved vouchers therefor have been filed with the auditor.

Payments from appropriations, how authorized. Res. 1856, 74. 1862, 51, § 2. 1867, 178, § 4. P. S. 16, § 29.

SECTION 31. If an appropriation or a portion thereof is not expended within the political year in which it is made or within the succeeding year, it, or the unapplied balance thereof, shall revert to the general treasury and shall not afterward be paid out except upon a new appropriation. An unexpended balance of an appropriation for a specific year may be applied in the succeeding year to the purpose for which the appropriation was made.

Unexpended appropriations to revert. 1858, 1, § 3; 158, § 15. G. S. 15, §§ 31, 40. P. S. 16, § 30.

SECTION 32. The phrase "incidental expenses" when used in an appropriation shall include expenses of postage, printing and stationery. G. S. 15, § 38. P. S. 16, § 34.

Incidental expenses. 1858, 11, § 5; 158, § 13. 1859, 272, § 5.

SECTION 33. An appropriation shall supersede an earlier one made for the same object. 1858, 11, § 6. 1859, 272, § 6. G. S. 15, § 39. P. S. 16, § 35.

Successive appropriations.

SECTION 34. An appropriation act shall not be construed to require a payment to a person with whom the commonwealth has an unadjusted account. The governor, upon receiving satisfactory information that money is illegally withheld from the commonwealth by any person, shall instruct the treasurer to withhold all payments to him until he pays such account. P. S. 16, § 31. 8 Allen, 247.

Payment withheld from person having unadjusted account with commonwealth. 1858, 11, § 2; 158, § 13. G. S. 15, § 32.

SECTION 35. Officers who are authorized to expend money in behalf of the commonwealth may have money advanced to them from the treasury, not exceeding at any one time the following amounts: the disbursing officer of the state board of charity, upon giving a bond in the sum of four thousand dollars, with sufficient

Advances from the treasury. 1884, 179, §§ 1, 4. 1888, 322, § 1. 1890, 58. 1891, 54. 1894, 245, 314. 1895, 10. 1899, 54.

1900, 266. 1901, 303, § 3.

sureties, payable to and approved by the treasurer and receiver general, three thousand dollars; the disbursing officer of the state board of insanity, upon giving a bond in the sum of two thousand dollars, with sufficient sureties, payable to and approved by the treasurer and receiver general, fifteen hundred dollars; the treasurer or disbursing officer of each of the state insane hospitals or asylums, of the Massachusetts hospital for dipsomaniacs and inebriates, of the Massachusetts hospital for epileptics, of the Massachusetts state sanatorium and of the Massachusetts school for the feeble-minded, not more than two thousand dollars for an institution having not more than five hundred inmates and not more than five thousand dollars for an institution having more than five hundred inmates; the board of prison commissioners, for aiding prisoners who have been discharged from the Massachusetts reformatory, five hundred dollars; the sergeant-at-arms, for necessary and legitimate expenditures made by him for committees of the general court while travelling under an order thereof, two thousand dollars, and for the incidental expenditures made by him in the care of the state house and grounds, five hundred dollars; the bonded paymasters of the militia, eighty per cent of the pay and mileage due or to become due to the officers and men of the militia for duty performed at camp or annual drill, under such rules and regulations as the treasurer and receiver general may prescribe; other public officers, except as otherwise provided, not more than one hundred and fifty dollars at any one time.

Officer to certify immediate need. 1884, 179, § 2.

SECTION 36. Such officers shall certify that the amount is needed for immediate use, and, as specifically as may be, the purposes for which the expenditure is required. The certificate shall bear the approval of the board having the supervision of such expenditure and, when filed with the auditor of accounts, his certificate and the warrant and payment shall follow as in case of claims against the commonwealth.

Statement in detail to auditor. 1884, 179, § 3. 1890, 58, §§ 1, 3.

SECTION 37. Such officers shall, within thirty days after the receipt of an advance, file with the auditor a detailed statement of the amounts expended subsequent to the previous accounting, approved by the board authorized to supervise such expenditure, and vouchers therefor if they can be obtained. All advances so made shall be accounted for and vouchers therefor filed with the auditor before the twenty-fifth day of December in each year.

Payments from ordinary revenue, etc. 1858, 11, § 8; 158, § 10. G. S. 15, § 33. P. S. 16, § 33. 8 Allen, 247.

SECTION 38. Payments authorized by appropriation acts shall be made from the ordinary revenue, if no other provision is expressly made therefor. Cash from the ordinary revenue on hand at the beginning of each year shall be carried to the account of the ordinary revenue of that year.

Payments limited to expense incurred. 1874, 360, § 2. P. S. 16, § 36.

SECTION 39. No greater sum from an appropriation for an institution, board or department shall be drawn from the treasury at any one time than is necessary to meet expenses then incurred, except as provided in section thirty-five.

SECTION 40. No officer shall make purchases or incur liabilities in the name of the commonwealth for a larger amount than has been appropriated for the service or purpose for which such purchases have been made or liabilities incurred; and the commonwealth shall not be responsible for the acts of its servants and officers for any amount in excess of its appropriations. Officers or boards may continue their several departments during the month of January, until the general court otherwise orders, at the rate of expenditure authorized by the appropriations for the preceding year. If expenditures are made in excess of appropriations, the officers having charge of such expenditures shall annually, on or before the fifteenth day of January, report to the auditor the details of such expenditures with the reasons therefor, and the auditor shall make a special report of the same to the general court early in its session.

Purchases by officers regulated.
1858, 11, § 7; 158, § 13.
G. S. 15, § 41.
1878, 187, § 2.
P. S. 16, § 37.

SECTION 41. No public officer or board shall incur a new or unusual expense, make a permanent contract, increase a salary or employ a new clerk, assistant or other subordinate unless a sufficient appropriation to cover the expense thereof has previously been made by the general court.

Same subject.
1858, 158, § 14.
G. S. 15, § 42.
P. S. 16, § 38.
1897, 128, § 2.

SECTION 42. No permanent improvement, alteration or addition shall be made in a building belonging to the commonwealth until a specific description of the intended change and an estimate of the expense thereof have been submitted to the general court, and until a specific appropriation has been made therefor. No board or officer shall insure any property of the commonwealth without special authority of law.

Improvements, etc., in public buildings, not to be made without an appropriation.
1859, 177, § 1.
G. S. 15, § 43.
1879, 296.
P. S. 16, § 39.

SECTION 43. Accounts for expenses incurred or services rendered, other than by legislative committees, under an order of the general court or of either branch thereof, may be approved by the president or speaker or by the sergeant-at-arms or other persons to whose direction or supervision such expenditures or services have been specially intrusted. No such order shall authorize the expenditure of more than one hundred dollars, unless a specific appropriation therefor has first been made.

Expenses incurred under orders of general court.
Res. 1857, 19.
1858, 158, § 11.
G. S. 15, § 37.
1869, 309, § 1.
P. S. 16, § 40.

SECTION 44. Except as hereinafter provided, no joint committee of the general court shall incur any expense to be paid by the commonwealth, unless authorized by order of both branches; and no committee of either branch shall incur such expense, unless authorized by the branch to which it belongs.

—of committees of general court.
1877, 181, § 1.
P. S. 16, § 41.

SECTION 45. No committee of the general court shall, after the close of the regular session, incur any expense to be paid by the commonwealth, unless there is an authorized appropriation therefor, nor shall a committee appointed to act during the recess of the general court incur any such expense after the recess.

—of committees acting during recess.
1858, 158, § 12.
G. S. 15, § 45.
1869, 309, § 3.
P. S. 16, § 44.

SECTION 46. No hearing before a committee of the general court, or of either branch thereof, shall be advertised at the expense of the commonwealth in more than two newspapers published in any county, nor more than twice in any newspaper; and no hearing

Advertisement of legislative committee hearings.
1877, 181, § 2.
P. S. 16, § 42.

1885, 371.
1897, 503.
1898, 76, § 1.

on a matter of special legislation affecting the interest of only a portion of the commonwealth shall be advertised in any newspapers except those published in the county of Suffolk and in the localities directly interested therein.

Form of advertisements.
1898, 76, § 2.

SECTION 47. In all newspapers designated to advertise such hearings, the advertisements shall be uniformly printed in type not larger than nonpareil, set solid, and without display either in the headings or in the body of the advertisements.

Designation of newspapers.
1885, 371, § 2.
1897, 503, § 2.
1898, 76, § 3.

SECTION 48. Advertisements of hearings shall be published only in newspapers designated by the chairman on the part of the senate or of the house and the clerk of the committee, and in each case the order for the advertisement shall be signed by the chairman and clerk of the respective committees, who shall designate therein the newspapers in which such advertisement is to be published and shall file the same with the auditor of the commonwealth, who shall thereupon forward a copy to the newspapers so designated for publication, and shall give such directions as he may deem necessary to secure uniformity in the style and manner of publication, as provided in the preceding section. The auditor shall certify all bills for publishing such advertisements, and shall annually, during the first week in April, report in detail to the general court the expenses incurred under the provisions of this section by the several committees.

Postage for legislative committees.
Res. 1856, 74.
1877, 181, § 4.
P. S. 16, § 43.

SECTION 49. Postage for the several committees of the general court shall be provided by the sergeant-at-arms, who shall be reimbursed therefor. The printing, binding and procuring of stationery, if for the use of the senate and house of representatives, shall be under the direction of the clerk of each branch respectively, and the amounts expended therefor shall be certified by him; and if for the use of the council or of the several offices or departments of the commonwealth, under the direction of the executive secretary or of the heads of said offices or departments respectively.

Auditing of expenses of legislative committees.
1875, 186, § 1.
1877, 181, § 3.
P. S. 16, § 45.

SECTION 50. Except as provided in the two preceding sections, no money shall be allowed and paid from the treasury for expenses incurred by committees of the general court, unless, at the beginning of each month, and at other convenient and necessary times during the session, the clerk of the committee prepares a schedule, on forms to be furnished by the auditor, of the expenses incurred for which bills have been rendered, which shall be approved in writing by a majority of the members of the committee and transmitted to the auditor of accounts. If a bill for an authorized expense incurred during a regular or special session of the general court is not rendered during such session so that it can be approved as aforesaid, the approval in writing of a majority of the members of the committee shall be sufficient to authorize the auditor to allow and certify the same for payment.

Payment of fees of witnesses before general court.

SECTION 51. Money appropriated for the fees of witnesses before the general court may be paid to the sergeant-at-arms, who shall pay therefrom the legal fees due to witnesses summoned before

committees authorized to send for persons and papers, upon the certificate of the chairman or other member authorized by the committee to certify such accounts, as soon as may be after said witnesses have been discharged, and in like manner shall pay the expense of taking any depositions authorized by such committees, and shall, within ten days after the prorogation, return to the auditor an account of such payments, and repay to the treasurer and receiver general the unexpended balance of such money. If witnesses are summoned in any session before an appropriation for their payment has been made, the governor may draw his warrant for an amount not exceeding the appropriation made in the preceding year, and in no case exceeding three hundred dollars.

1859, 221, § 1.
G. S. 15, § 46.
1860, 41, §§ 1, 2.
P. S. 16, §§ 46, 47.

SECTION 52. The compensation of committees of the general court appointed to act during the recess and of legal counsel and commissioners appointed by the governor shall, unless otherwise provided, be determined by the governor and council who shall approve such claims before they are sent to the auditor.

Compensation of commissioners, etc.
1850, 143, § 1.
G. S. 15, § 47.
P. S. 16, § 48.

SECTION 53. No periodicals, publications or books, other than those printed for the use of the general court, shall be ordered for members thereof at the expense of the commonwealth.

Books, etc., not to be ordered for members.
G. S. 2, § 16.
P. S. 16, § 49.

SECTION 54. State officers, boards and commissions who receive an annual salary or its equivalent, who are provided with an office by the commonwealth and whose duties require regular attendance at such office shall not be allowed or paid by the commonwealth any expenses in the nature of travelling or living expenses. Such officers, boards or commissions whose duties require them to travel elsewhere than to and from the office provided for them by the commonwealth, and unpaid officers, boards and commissions, and those whose duties require their attendance at intervals, but not daily, and who receive compensation by the day, shall be allowed their actual reasonable expenses incurred in the performance of such duties, if such expenses were, on the second day of June in the year eighteen hundred and ninety-nine, authorized by law to be paid by the commonwealth. Bills for such expenses shall be itemized and the dates when, and the purposes for which, such expenses were incurred shall be stated before their allowance by the auditor.

Expenses of state officers.
1899, 459.

SECTION 55. Such officers, boards and commissions to whom travelling expenses are allowed by the commonwealth shall, unless otherwise provided, receive not more than three and one-half cents a mile each way actually travelled, nor more than the amount actually expended.

Travelling expenses of public officers.
1859, 221, § 7.
G. S. 15, § 48.
P. S. 16, § 50.

SECTION 56. Officers of public institutions and of departments of the commonwealth receiving fees or other money payable into the treasury shall pay them over at least once in each month.

Fees to be paid into state treasury monthly.
1874, 360, § 1.
P. S. 16, § 52.

SECTION 57. If sales of the property of the commonwealth are made by any officer of a state institution, the superintendent thereof shall submit to the trustees or other supervising board an itemized

Itemized account of sales of state property.
1884, 326.

account, under oath, of such sales, for their approval in the same manner as accounts for materials and supplies for such institutions are approved, and such account shall be filed with the treasurer and receiver general when the proceeds of such sales are paid over to him.

Salaries, when payable. Advances. 1858, 11, §§ 3, 4. 1859, 272, § 4. G. S. 15, § 36. 1867, 263. 1868, 4. P. S. 16, § 54. 1895, 34. 98 Mass. 484.

SECTION 58. Salaries payable from the treasury shall, unless otherwise provided, be paid on the first day of each month, and shall be in full for all services rendered to the commonwealth by the persons to whom they are paid. Advances on account of salaries may be made under such regulations as the treasurer and receiver general may prescribe, not exceeding the proportion of salary then due, nor oftener than once in seven days nor after the twenty-fifth day of the month. No salary shall be paid to any person for a longer period than that during which he has been actually employed in the duties of his office. If a salary shall be diminished, no greater rate shall be paid because of any previous appropriation therefor.

Disposal of unpaid checks. 1900, 117, § 1.

SECTION 59. The face value of all checks hereafter given by the treasurer and receiver general and not paid within two years after their issue shall revert to the treasury of the commonwealth, and the amount due on account of such checks shall not be paid from such treasury except upon an appropriation for the purpose by the general court.

Par of exchange established. 1882, 110.

SECTION 60. The par of exchange established by section thirty-five hundred and sixty-five of the Revised Statutes of the United States is hereby adopted for all accounts, entries and records in the books of the auditor of accounts and of the treasurer and receiver general.

Deposit of public moneys in trust companies, etc. 1876, 21. P. S. 16, § 55. 1891, 310.

SECTION 61. The treasurer and receiver general may deposit any portion of the public moneys in his possession in such national banks within the commonwealth or in such trust companies incorporated under the laws of, and doing business within, this commonwealth, as shall be approved at least once in three months by the governor and council; but the amount deposited in any one bank or trust company shall not at any one time exceed forty per cent of its paid up capital. All interest received on such deposits shall be paid into the treasury of the commonwealth.

Assignment of bonds, mortgages, etc. 1856, 68, § 2. G. S. 15, § 16. P. S. 16, § 56.

SECTION 62. No bond or security belonging to the commonwealth shall be transferred except with the written approval of the governor. A note, bond, mortgage or other security which has been made to the treasurer and receiver general by name may be assigned, transferred or discharged by him or by any successor in office.

Treasurer may assign instead of discharge mortgage. 1847, 195. G. S. 15, § 13. P. S. 16, § 57.

SECTION 63. If the treasurer and receiver general is authorized to discharge a mortgage held by the commonwealth, he may instead thereof assign it; but such assignment shall not impose upon the commonwealth any liability, express or implied.

SECTION 64. When the title to real estate vests in the commonwealth by foreclosure the treasurer and receiver general may, with the approval of the governor and council, convey the same upon the payment of the amount of the mortgage debt with the interest and expenses accrued thereon.

Treasurer may sell real estate held by foreclosure.
1804, 103, § 1.
1856, 68, § 1.
G. S. 15, § 14.
P. S. 16, § 58.

SECTION 65. Funds over which the commonwealth has exclusive control shall be invested by the treasurer and receiver general with the approval of the governor and council, in securities of the commonwealth, in the notes or bonds of the several counties, cities, and towns thereof, or in the scrip or bonds of the United States, of the several New England states, or of the state of New York; in the notes or bonds of any incorporated district in this commonwealth or of any city of the New England states, issued for municipal purposes, whose net indebtedness at the time of purchase does not exceed five per cent of the last preceding valuation of the property therein for the assessment of taxes; or in the notes of any corporation established within this commonwealth to become due in one year or less time if secured by a pledge of bonds of the United States or of this commonwealth of at least an equal value estimating them at not more than eighty-five per cent of their market value.

Investment of funds of the commonwealth.
1862, 187, § 1.
P. S. 16, § 60.
1882, 130.

SECTION 66. No deposit required by law to be made by any corporation in trust with the treasurer and receiver general, or any part thereof, shall consist of a mortgage upon real estate or of a loan upon personal notes or of notes secured by collateral. He may in his discretion receive, as a part of such deposit, money or certificates of deposit, or certified checks on any approved state depositary, and may hold the same without interest until it may reasonably be invested in a proper legal security.

Trust deposits with treasurer regulated.
1893, 224.

SECTION 67. He shall have the custody and keep a separate account of all notes, bonds and mortgages belonging to the commonwealth, and shall receive all money accruing therefrom. All deeds and instruments conveying real estate to the commonwealth shall, when recorded, be deposited with and safely kept by him.

Custody of bonds, etc., belonging to commonwealth.
1830, 98.
R. S. 10, § 6.
G. S. 15, § 18.
1870, 329.
P. S. 16, §§ 19, 20.

SECTION 68. The governor shall annually in August appoint a committee of the council, which shall examine the value of the notes and securities in charge of the treasurer and receiver general and report thereon to the governor and council, who may direct the treasurer to sell or to collect notes or securities over which the commonwealth has exclusive control and to reinvest the proceeds according to the provisions of section sixty-five.

Annual examination of securities.
1862, 187, § 2.
P. S. 16, § 61.

SECTION 69. The income or any surplus of funds belonging to or in the custody of the commonwealth shall, unless otherwise provided, be added to the principal.

Unappropriated income.
1862, 83, § 4.
P. S. 16, § 62.

SECTION 70. When the accumulations of a sinking fund of the commonwealth are sufficient to extinguish at maturity the indebtedness for which it was established, its subsequent accumulations may be added by the treasurer to any sinking fund which is not sufficient to meet the indebtedness for which it was established.

Application of accumulations of sinking funds.
1891, 259.

Transfer of securities from one fund to another.
1868, 71.
P. S. 16, § 63.

SECTION 71. The treasurer, instead of selling any of the stocks or securities belonging to funds over which the commonwealth has exclusive control to meet maturing liabilities, may transfer them to any other of such funds upon terms and conditions approved by the governor and council.

Notes for borrowed money.
Res. 1857, 99.
Res. 1858, 13.
G. S. 15, § 34.

SECTION 72. Notes for money borrowed in anticipation of the revenue shall be signed by the treasurer, approved by the governor, and countersigned by the auditor. P. S. 16, § 66.

Bonds or scrip payable in gold.
1862, 82.
1878, 11.

SECTION 73. The principal and interest of all bonds or scrip of the commonwealth when due shall be paid in gold coin or its equivalent. P. S. 16, § 67.

Issue of registered in exchange for coupon bonds.
1867, 255, §§ 1, 3.
P. S. 16, §§ 68, 69.

SECTION 74. The treasurer may, upon terms and regulations prescribed by the governor and council, issue, in denominations of not less than one thousand dollars, registered bonds in exchange for any coupon bonds of the commonwealth, which, with the exception of the coupons, shall be in conformity with the laws authorizing the issue of such coupon bonds. He shall mutilate and retain the bonds so received in exchange. The auditor shall certify such registered bonds; and he and the treasurer shall each keep a register of their dates, numbers and amounts, the names of the persons to whom they were issued, when they are payable, and for what bonds they were issued in exchange. The treasurer may also, upon the same terms and regulations, issue in substitution for mutilated, defaced or indorsed bonds presented to him other bonds of like or equivalent issues.

— of duplicate bonds when originals have been lost or destroyed.
1872, 367, § 1.
P. S. 16, § 70.

SECTION 75. If it appears to the governor and council, by clear and unequivocal proof, that any interest-bearing bond of the commonwealth identified by number and description has, without bad faith upon the part of the owner, been lost or destroyed, wholly or in part, they shall, under regulations and with restrictions as to time and retention for security or otherwise prescribed by them, order the treasurer to issue a registered duplicate of such bond, payable at the same time, bearing the same rate of interest as the bond lost or destroyed, and so marked as to show the number and date of the original bond. If such bond was of a class or series which has been or may be called in for redemption before the application for a reissue, it shall be paid, with such interest only as would have been paid if the bond had been presented in accordance with such call.

Bond of indemnity by owner of lost bond.
1872, 367, § 2.
P. S. 16, § 71.

SECTION 76. The owner of such bond shall surrender so much thereof as may remain, if any, and shall give to the treasurer and receiver general a bond in double the amount of said lost or destroyed bond and of the interest which would accrue until the principal is due and payable, with two sufficient sureties, residents of this commonwealth, approved by the governor and council, conditioned to indemnify and save harmless the commonwealth from any claim on account of said lost or destroyed bond.

SECTION 77. Officers or agents who contract in behalf of the commonwealth for the construction or repair of public buildings or other public works shall obtain sufficient security, by bond or otherwise, for payment by the contractor and sub-contractors for labor performed or furnished and for materials used in such construction or repair; but in order to obtain the benefit of such security, the claimant shall file with such officers or agents, a sworn statement of his claim, within sixty days after the completion of the work.

Security against mechanics' liens on public buildings. 1878, 209. P. S. 16, § 64. 174 Mass. 335.

SECTION 78. The auditor of accounts, the auditor of any public institution, or any other person authorized to approve claims for materials, supplies or other articles furnished to, or for service or labor performed for, the commonwealth, may, before approving any such claim, require the claimant to certify under oath that all the articles have been furnished, for which the claim has been made, or that the service or labor has been performed, and that no commission, discount, bonus, present or reward of any kind has been received or promised or is expected on account of the same.

Requirement of oath of claimant. 1862, 101, § 3. P. S. 16, § 65.

SECTION 79. The governor, with the advice and consent of the council, may from time to time appoint an agent to examine and prosecute before any of the executive departments of the United States government, any account or claim of the commonwealth against the United States, except any claim for reimbursement of interest paid by the commonwealth on its war loans; and if any amount is received into the treasury of the commonwealth by reason of the services rendered by such agent he may be paid in full compensation for services and expenses such sum, not exceeding ten per cent of the amount so received, as may be agreed upon in advance between the governor and council and such agent.

Agent to prosecute claims. Res. 1883, 45.

CHAPTER 7.

OF THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEYS.

SECTION 1. The attorney general shall appear for the commonwealth, the secretary, the treasurer and receiver general, the auditor of accounts and for state boards and commissions in all suits and other civil proceedings in which the commonwealth is a party or interested, or in which the official acts and doings of said officers are called in question, in all the courts of the commonwealth, except upon criminal recognizances and bail bonds; and in such suits and proceedings before any other tribunal when requested by the governor or by the general court or either branch thereof. All such suits and proceedings shall be prosecuted or defended by him or under his direction. Writs, summonses or other processes served upon such officers shall be forthwith transmitted by them to him. All legal services required by such officers, boards, commissions and commissioner of pilots for the harbor of Boston in matters relating to their official duties shall be rendered by the attorney general or under his direction.

Attorney general to appear for commonwealth, when. 1807, 18, § 1. 1809, 32. 1811, 10. 1832, 130, § 8. R. S. 13, §§ 28, 30. 1839, 28, § 2. 1843, 99. 1849, 186, §§ 2, 3, 7. G. S. 14, §§ 17, 22. 1879, 8. P. S. 17, §§ 3, 8. 1892, 159. 1894, 127. 1895, 373. 1896, 490, §§ 1, 2.

Collection of claims of commonwealth.
1834, 199.
R. S. 13, § 25.
G. S. 15, § 17.
P. S. 16, § 21.

SECTION 2. The attorney general shall enforce the collection of money due under the provisions of section eight of chapter six and the performance of the conditions therein referred to, as, with due regard to the situation of the debtors, he may consider that the interests of the commonwealth require.

Actions, how brought.
1866, 233, § 2.
P. S. 16, § 53.

SECTION 3. All civil actions to recover money for the commonwealth may be brought by the attorney general or by a district attorney in the name of the commonwealth.

Attorney general to advise district attorneys, etc.
1832, 130, § 8.
R. S. 13, §§ 28, 31.
1843, 99, § 2.
1849, 186, §§ 2, 4.
1850, 46.
G. S. 14, §§ 17, 19.

SECTION 4. He shall consult with and advise the district attorneys in matters relating to their duties; and, if in his judgment the public interest so requires, he shall assist them by attending the grand jury in the examination of a case in which the accused is charged with a capital crime, and appear for the commonwealth in the trial of indictments for capital crimes.

P. S. 17, § 5. 1891, 379, § 10. 1893, 324.

—to file informations.
1849, 186, § 9.
G. S. 14, § 18.
P. S. 17, § 4.

SECTION 5. He may, if in his judgment the public interest so requires, prosecute informations or other processes against persons who intrude on the land, rights or property of the commonwealth, or commit or erect a nuisance thereon. [1 Op. A. G. 638.]

—to enforce application of charity funds, etc.
1847, 263.
1849, 186, § 8.
G. S. 14, § 20.
P. S. 17, § 6.
5 Cush. 356.

SECTION 6. He shall enforce the due application of funds given or appropriated to public charities within the commonwealth, prevent breaches of trust in the administration thereof and, if necessary, prosecute corporations which fail to make to the general court the returns required by law. 126 Mass. 217.

—to aid and advise committees of general court.
1832, 130, § 8.
R. S. 13, § 33.
1843, 99, § 3.
1849, 186, § 6.
G. S. 14, § 21.
P. S. 17, § 7.
1900, 373, § 1.

SECTION 7. He shall, when required by either branch of the general court, attend during its sessions and give his aid and advice in the arrangement and preparation of legislative documents and business, and shall give his opinion upon questions of law submitted to him by the governor and council or by either branch of the general court. He, or some person designated by him, shall, when requested by a vote of a majority of the members of a legislative committee, appear before such committee and advise it upon the legal effect of proposed legislation pending before it.

Annual report and reports of capital trials.
1832, 130, § 8.
R. S. 13, §§ 31, 32.
1839, 157, § 4.
1849, 186, § 4.
G. S. 14, § 23.
P. S. 17, § 9.
1886, 214.
1898, 436.
1900, 373, § 2.

SECTION 8. He shall annually report to the general court the cases tried, argued or conducted by him during the preceding year, with suggestions and recommendations as to the amendment and the proper and economical administration of the laws. He shall include therein a statement of his acts under the preceding section with suggestions and recommendations relative thereto. He may, with the approval of the governor and council, prepare and publish reports of capital trials at an expense not exceeding fifteen hundred dollars in any one year. One copy shall be sent to each public and law library in the commonwealth, and the balance may be sold, or otherwise disposed of, at the discretion of the secretary of the commonwealth.

Salary and assistants.
1786, 84.

SECTION 9. He shall receive an annual salary of five thousand dollars. He may appoint such assistants as the duties of the office

require; and with the approval of the governor and council shall fix their compensation. If in his opinion the interests of the commonwealth so require, he may, with the approval of the governor and council, employ additional legal assistance. G. S. 14, §§ 16, 32.

1866, 298, § 2. 1868, 93, §§ 1, 2. 1873, 254. 1874, 132. 1879, 123, § 2. P. S. 17, §§ 1, 2. 1886, 216. 1888, 425. 1889, 402. 1896, 490, § 3.

1789, 25; 45, § 1. 1813, 131, § 1. 1832, 130, § 10. R. S. 13, § 43. 1849, 186, § 12. Res. 1855, 25. 1856, 67. Res. 1856, 60.

Expenses of civil actions.

SECTION 10. An amount not exceeding eight hundred dollars shall be annually appropriated for the contingent expenses of civil actions in which the commonwealth is a party or interested. 1890, 388.

1839, 28, § 1. G. S. 14, § 24. P. S. 17, § 10.

Districts for administration of criminal law.

SECTION 11. For the administration of the criminal law, the county of Suffolk shall constitute the Suffolk district; the county of Middlesex, the northern district; the county of Essex, the eastern district; the counties of Norfolk and Plymouth, the southeastern district; the counties of Bristol, Barnstable, Nantucket and Dukes County, the southern district; the county of Worcester, the middle district; the counties of Berkshire and Hampden, the western district; and the counties of Franklin and Hampshire, the northwestern district; and for each of said districts there shall be a district attorney.

Amend. const., art. 19. 1832, 130, § 9. R. S. 13, §§ 34, 35. 1848, 16, § 1. 1852, 196, §§ 1, 2. 1855, 275, § 1. G. S. 14, § 28. P. S. 17, § 12.

Assistant district attorneys.

SECTION 12. The district attorney for the Suffolk district may appoint a first and a second assistant district attorney and a clerk, and the district attorney for the northern, eastern, southern, southeastern and middle districts, respectively, may appoint an assistant district attorney; any such assistant or clerk may be removed at the pleasure of the district attorney.

1856, 67, § 1. G. S. 14, § 32. 1869, 373. 1870, 361, § 2. 1874, 164. 1881, 157. P. S. 17, §§ 13, 14.

1882, 157. 1888, 157. 1891, 113. 1897, 306.

Salaries of district attorneys and assistants.

SECTION 13. The annual salary of the district attorney for the Suffolk district shall be five thousand dollars; for the northern district, twenty-four hundred dollars; for the eastern district, twenty-four hundred dollars; for the southeastern district, twenty-four hundred dollars; for the southern district, twenty-two hundred dollars; for the middle district, twenty-four hundred dollars; for the western district, twenty-one hundred dollars; and for the northwestern district, thirteen hundred and fifty dollars. The annual salary of the first and second assistant district attorneys for the Suffolk district shall be thirty-three hundred dollars each; and that of the clerk of the district attorney for said district, eighteen hundred dollars; of the assistant district attorney for the northern district, fifteen hundred dollars; for the southeastern district, fourteen hundred dollars; for the eastern, southern and middle districts, twelve hundred dollars each. Said salaries shall be paid from the treasury of the commonwealth.

1832, 130, § 10. R. S. 13, § 43. 1843, 9. 1845, 36, 14. 1846, 264. 1848, 16, § 3. 1849, 142. 1852, 196, § 4. 1855, 275, § 3. 1856, 249, 277. 1857, 226. 1858, 111, 118. 1859, 216. G. S. 14, §§ 29, 32. 1867, 349. 1868, 4. 1869, 373. 1870, 361, §§ 1, 2. 1872, 352. 1873, 89. 1874, 164. 1879, 238. 1881, 286, 157. P. S. 17, § 15.

1882, 156; 157; 245, § 2. 1885, 168. 1887, 97, 160. 1888, 157, 267, 289. 1889, 238, 250. 1891, 113. 1892, 233, 319. 1893, 138, 457. 1894, 297. 1895, 424. 1897, 306. 1898, 235. 1899, 470. 1901, 500.

District attorney may have clerk and temporary assistant in certain cases.

SECTION 14. If there is no assistant district attorney, the court may allow a reasonable sum, payable from the county treasury, for the services of a clerk to aid the district attorney; and in the northern, eastern, middle, and southeastern districts, the court may appoint, for the sitting at which the appointment is made, such clerk or other competent person to act as an assistant to the district

1873, 278. 1875, 12. P. S. 17, § 16. 1888, 267, § 2.

attorney. The compensation of such assistant, not exceeding six hundred dollars in one year, shall be paid as above provided.

Appointment of substitute, when.
1832, 130, § 9.
R. S. 13, § 40.

SECTION 15. The supreme judicial court and the superior court may at any sitting, in the absence of the attorney general and district attorney, appoint some suitable person to perform their duties.

G. S. 14, § 25. P. S. 17, § 22. 4 Gray, 146. 8 Gray, 501.

District attorneys to give bond.
1874, 394, § 1.
P. S. 17, § 18.

SECTION 16. A district attorney shall, before entering upon the performance of his official duties, give bond to the commonwealth in the sum of five thousand dollars, with two sufficient sureties approved by the superior court, conditioned faithfully to account for and pay over all money received by him in the performance of his official duties. Said court may, if it considers such sureties insufficient, require a new bond. A failure to give bond shall be deemed a declination or resignation of the office.

General duties of district attorneys.
1807, 18, § 1.
1832, 130, § 9.
R. S. 13, §§ 38, 39.
G. S. 14, §§ 31, 33.
P. S. 17, §§ 19, 21.
1893, 345.
3 Cush. 48.
8 Gray, 499.
9 Gray, 278.
15 Gray, 447.

SECTION 17. The district attorneys within their respective districts shall appear for the commonwealth in the superior court in all cases, criminal or civil, in which the commonwealth is a party or interested, and in the hearing, in the supreme judicial court, of all questions of law arising in the cases of which they respectively have charge, shall aid the attorney general in the duties required of him, and perform such of his duties as are not required of him personally; but the attorney general, when present, shall have the control of such cases. They may interchange official duties.

Suits upon defaulted or forfeited recognizances in criminal cases.
1874, 394, § 2.
P. S. 17, § 20.

SECTION 18. District attorneys shall commence suits upon recognizances in criminal cases within their respective districts within sixty days after default has been entered of record, or after they have satisfactory evidence of an act which should cause a forfeiture thereof and shall prosecute them without delay. Such suits may be begun after the expiration of said sixty days, and shall not be discontinued without the consent of the court, or upon a certificate, signed by the sheriff or his deputy and filed in court, that the amount of the recognizance and the costs of suit have been paid to him.

Attorney general, etc., to advise with certain trustees, etc.
1862, 223, § 12.

SECTION 19. The attorney general and district attorneys shall advise and consult with the trustees and treasurers of the several state insane hospitals on questions of law relative to their official business.

P. S. 17, § 23.

— to account for fees.
1786, 84.
1789, 25, 45.
1813, 131, § 2.

SECTION 20. The attorney general and the district attorneys shall account to the treasurer and receiver general for all fees, bills of cost and money received by them by virtue of their offices.

1832, 130, § 10. R. S. 13, § 45. G. S. 14, § 27. P. S. 17, § 24. 9 Gray, 278.

— not to receive fees, etc.
1807, 18, § 2.
1832, 130, § 10.
R. S. 13, § 46.
G. S. 14, § 26.
P. S. 17, § 25.

SECTION 21. No prosecuting officer shall receive any fee or reward from or in behalf of a prosecutor for services in any prosecution or business to which it is his official duty to attend, nor shall he be concerned as counsel or attorney for either party in a civil action depending upon the same facts involved in such prosecution or business.

CHAPTER 8.

OF THE STATUTES.

When statutes shall take effect. R. S. 2, §§ 4, 5. G. S. 3, § 6. P. S. 3, § 1. 10 Mass. 290. 3 Gray, 606. 6 Gray, 316.

SECTION 1. A statute shall take effect throughout the commonwealth, unless otherwise expressly provided therein, on the thirtieth day next after the day on which it is approved by the governor, or is otherwise passed and approved, or has the force of a law, conformably to the constitution.

16 Gray, 144. 108 Mass. 32. 109 Mass. 355, 358. 118 Mass. 168.

Resolves to take effect upon passage.

SECTION 2. A resolve shall take effect upon its passage unless otherwise expressly provided therein. 1864, 287. P. S. 3, § 2.

Return to be made to secretary of commonwealth of acceptance or rejection, etc., of certain acts and resolves. 1883, 100.

SECTION 3. If an act or resolve is to take effect upon its acceptance by a municipal or other corporation, a return of the action taken by such corporation shall be made by its clerk to the secretary of the commonwealth within thirty days thereafter. If such act or resolve prescribes a time within which it may be accepted and, within the time limited, it is rejected, or no action is taken thereon, said clerk shall, within thirty days after the expiration of the time so limited, make a return to the secretary of the commonwealth, stating that such act or resolve was rejected or that no action was taken thereon.

Rules for construing statutes. G. S. 3, § 7. P. S. 3, § 3.

SECTION 4. In construing statutes the following rules shall be observed, unless their observance would involve a construction inconsistent with the manifest intent of the general court, or repugnant to the context of the same statute; that is to say: —

Repeal not to revive any previous statute.

First, The repeal of an act or resolve shall not revive any previous act or resolve. 1869, 410. P. S. 3, § 3, cl. 1.

Repeal not to affect penalties, etc., previously incurred. 1869, 410. P. S. 3, § 3, cl. 2.

Second, The repeal of an act shall not affect any punishment, penalty or forfeiture incurred before the repeal takes effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offence committed, or for the recovery of a penalty or forfeiture incurred under the act repealed. 123 Mass. 407. 150 Mass. 315.

How words and phrases shall be construed. R. S. 2, § 6, cl. 1. G. S. 3, § 7, cl. 1. P. S. 3, § 3, cl. 3. 7 Allen, 295, 305.

Third, Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such meaning. 8 Allen, 298. 10 Allen, 157.

Number and gender. R. S. 2, § 6, cl. 2. G. S. 3, § 7, cl. 2. P. S. 3, § 3, cl. 4. 105 Mass. 35. 127 Mass. 565.

Fourth, Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words importing the masculine gender may be applied to females. 131 Mass. 376.

Joint authority. R. S. 2, § 6, cl. 3. G. S. 3, § 7, cl. 3. P. S. 3, § 3, cl. 5.

Fifth, Words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

6 Met. 343. 5 Cush. 272. 7 Gray, 131. 16 Gray, 343. 113 Mass. 174. 152 Mass. 500, 505.

Meaning of certain words in construing statutes. G. S. 3, § 7. P. S. 3, § 3.

SECTION 5. In construing statutes the following words shall have the meaning herein given, unless a contrary intention clearly appears: —

"Annual meeting." R. S. 2, § 6, cl. 4. 1837, 52. G. S. 3, § 7, cl. 4.

First, The words "annual meeting," when applied to towns, shall mean the annual meeting required by law to be held in the month of February, March or April. P. S. 3, § 3, cl. 6.

"Gaming," "illegal gaming," "unlawful gaming." 1895, 419, § 1.

Second, The words "gaming," "illegal gaming" or "unlawful gaming" shall include every act punishable under any law relative to lotteries, policy lotteries or policy, the buying and selling of pools or registering of bets.

"Grantor" and "grantee." R. S. 2, § 6, cl. 5; 60, § 32. G. S. 3, § 7, cl. 5. P. S. 3, § 3, cl. 7.

Third, The word "grantor" may include every person from or by whom a freehold estate or interest passes in or by any deed; and the word "grantee" may include every person to whom such estate or interest so passes. 165 Mass. 362.

"Highway." R. S. 2, § 6, cl. 6. G. S. 3, § 7, cl. 6. P. S. 3, § 3, cl. 8.

Fourth, The word "highway" may include a county bridge, and shall be equivalent to the words "county way," "county road" and "common road."

"Inhabitant." Const., pt. 2, c. 1, § 2, art. 2.

Fifth, The word "inhabitant" may mean a resident in any city or town. R. S. 2, § 6, cl. 7. G. S. 3, § 7, cl. 7. P. S. 3, § 3, cl. 9. 6 Allen, 425. 122 Mass. 595.

"Insane person" and "lunatic."

Sixth, The words "insane person" and "lunatic" shall include every idiot, non compos, lunatic and insane and distracted person. R. S. 2, § 6, cl. 8. R. S. 79, § 34. G. S. 3, § 7, cl. 8. P. S. 3, § 3, cl. 10.

"Issue." R. S. 2, § 6, cl. 9; 61, § 13.

Seventh, The word "issue," as applied to the descent of estates, shall include all the lawful lineal descendants of the ancestor. G. S. 3, § 7, cl. 9. P. S. 3, § 3, cl. 11. 140 Mass. 267, 270.

"Land," "lands," and "real estate." R. S. 2, § 6, cl. 10.

Eighth, The words "land," "lands" and "real estate" shall include lands, tenements and hereditaments, and all rights thereto and interests therein. R. S. 60, § 32. G. S. 3, § 7, cl. 10. P. S. 3, § 3, cl. 12. 120 Mass. 159. 138 Mass. 378. 155 Mass. 505, 506.

"Legal holiday." 1856, 113, § 1. G. S. 2, § 24. 1881, 71. P. S. 2, § 34. 1882, 49. 1887, 263. 1894, 130, § 4. 1896, 162, § 1.

Ninth, The words "legal holiday" shall include the twenty-second day of February, the nineteenth day of April, the thirtieth day of May, the fourth day of July, the first Monday of September, Thanksgiving day and Christmas day, or the day following when any of the four days first mentioned or Christmas day occurs on Sunday; and the public offices shall be closed on all of said days.

"Mayor and aldermen." 1854, 448, § 33.

Tenth, The words "mayor and aldermen" shall mean board of aldermen, except as applied to appointments. G. S. 19, § 17. 1882, 164.

"Month" and "year." R. S. 2, § 6, cl. 11. G. S. 3, § 7, cl. 11.

Eleventh, The word "month" shall mean a calendar month, and the word "year," a calendar year, unless otherwise expressed; and the word "year" alone shall be equivalent to the expression "year of our Lord." P. S. 3, § 3, cl. 13. 19 Pick. 532, 535. 14 Gray, 37.

"Net indebtedness." 1875, 209, §§ 6, 10. 1880, 32. P. S. 29, §§ 2, 3. 1883, 127. 1894, 317, § 21, cl. 2, *f*. 1894, 522, § 34, cl. 4.

Twelfth, The words "net indebtedness" shall mean the indebtedness of a county, city, town or district, omitting debts created for supplying the inhabitants with water and other debts exempted from the operation of the law limiting their indebtedness, and deducting the amount of sinking funds available for the payment of the indebtedness included. 1895, 164.

Newspaper. 1885, 235.

Thirteenth, Any daily or weekly periodical devoted exclusively to legal news, which has been published in the commonwealth for six consecutive months, shall be deemed a newspaper for the insertion of legal notices required by law, if the publication of such notice in such periodical is ordered by the court.

"Oath." R. S. 2, § 6, cl. 12.

Fourteenth, The word "oath" shall include "affirmation" in cases where by law an affirmation may be substituted for an oath. G. S. 3, § 7, cl. 12. P. S. 3, § 3, cl. 14.

Fifteenth, The word "ordinance," as applied to cities, shall be synonymous with the word "by-law." P. S. 3, § 3, cl. 15. "Ordinance." G. S. 3, § 7, cl. 21.

Sixteenth, The word "person" may extend and be applied to bodies politic and corporate. G. S. 3, § 7, cl. 13. P. S. 3, § 3, cl. 16. 3 Cush. 45. 4 Cush. 589. 6 Cush. 482. 12 Cush. 59. 8 Gray, 510. 8 Allen, 209. 118 Mass. 354. 153 Mass. 43. "Person." R. S. 2, § 6, cl. 13.

Seventeenth, The word "place" may mean a city or town. G. S. 3, § 7, cl. 18. P. S. 3, § 3, cl. 17. 11 Gray, 81. 102 Mass. 215. "Place."

Eighteenth, The word "preceding" or "following," used with reference to any section of the statutes, shall mean the section last preceding or next following, unless some other section is expressly designated in such reference. P. S. 3, § 3, cl. 18. "Preceding" and "following." R. S. 2, § 6, cl. 14. G. S. 3, § 7, cl. 14.

Nineteenth, If the seal of a court, public office, public officer or corporation is required by law to be affixed to a paper, the word "seal" shall mean an impression of the official seal upon the paper as well as an impression on a wafer or wax affixed thereto. 10 Allen, 251. 14 Allen, 387. "Seal." R. S. 2, § 6, cl. 15. 1855, 223. G. S. 3, § 7, cl. 15. P. S. 3, § 3, cl. 19.

Twentieth, The word "spendthrift" shall mean a person who is liable to be put under guardianship on account of excessive drinking, gaming, idleness or debauchery. "Spendthrift." R. S. 79, § 34. G. S. 3, § 7, cl. 8. P. S. 3, § 3, cl. 20.

Twenty-first, The word "state," when applied to the different parts of the United States, shall extend to and include the District of Columbia and the several territories; and the words "United States" shall include said district and territories. P. S. 3, § 3, cl. 21. "State" and "United States." R. S. 2, § 6, cl. 16. G. S. 3, § 7, cl. 16.

Twenty-second, The word "swear" shall include "affirm" in cases in which by law an affirmation may be substituted for an oath. When applied to public officers who are required by the constitution to take the oaths therein prescribed, it shall refer to those oaths; and when applied to any other officer it shall, unless otherwise expressly provided, mean sworn to the faithful performance of his official duties. "Swear." Const., pt. 2, c. 6, art. 1. Amend. const., art. 6. G. S. 3, § 7, cls. 12, 22. P. S. 3, § 3, cl. 22.

Twenty-third, The word "town" may include a city. R. S. 2, § 6, cl. 17. G. S. 3, § 7, cl. 17. P. S. 3, § 3, cl. 23. 148 Mass. 153. 153 Mass. 41. "Town."

Twenty-fourth, The word "will" shall include codicils. R. S. 2, § 6, cl. 18. G. S. 3, § 7, cl. 19. P. S. 3, § 3, cl. 24. 5 Cush. 259. "Will."

Twenty-fifth, The words "written" and "in writing" may include printing, engraving, lithographing and any other mode of representing words and letters; but if the written signature of a person is required by law, it shall always be his own handwriting or, if he is unable to write, his mark. 9 Pick. 312. 157 Mass. 439. "Written" and "in writing." R. S. 2, § 6, cl. 19. G. S. 3, § 7, cl. 20. P. S. 3, § 3, cl. 25.

CHAPTER 9.

OF THE PRINTING AND DISTRIBUTION OF THE LAWS AND PUBLIC DOCUMENTS.

SECTIONS 1–4. — Printing and Distribution of the Laws.
SECTIONS 5–15. — Printing and Distribution of Public Documents, etc.

PRINTING AND DISTRIBUTION OF THE LAWS.

SECTION 1. The secretary of the commonwealth shall, at the close of each session of the general court, collate and cause to be printed in one volume, in style and arrangement as heretofore, the Acts and resolves, printing of. Const., pt. 2, c. 6, art. 11.

Res. 1811, 76. R. S. 2, § 1. Res. 1839, 83. 1851, 256, § 4. G. S. 3, § 1. 1865, 156. 1866, 65, § 1. 1876, 178. 1877, 248, § 3. 1878, 264, § 3. 1880, 193, § 3. 1881, 293, § 3. P. S. 4, § 1. 1882, 238. 1884, 166, § 1. 1885, 369, § 2. 1889, 440, § 1. 1894, 393, § 1.

constitution of the commonwealth, the acts and resolves passed, any amendments to the constitution agreed to during such session, the governor's address and messages, a list of the changes of names returned during the preceding year by the probate courts, a list of the officers of the civil government of the commonwealth, a table of changes in the general laws, and an index. The governor shall annually appoint a skilled person to prepare said table and index, whose compensation shall be determined by the governor and council. The table and index shall be printed in such editions of the laws as the governor shall direct.

Distribution of acts and resolves. R. S. 2, § 2. G. S. 3, § 2. 1866, 65, § 2. 1872, 329. 1877, 248, § 3. 1878, 264, § 3. 1880, 193, § 4. 1881, 293, §§ 3, 4. P. S. 4, § 2. 1884, 166, § 1. 1885, 369, § 2. 1889, 440, § 2. 1893, 108. 1894, 393, § 2. 1895, 238; 250; 428, § 2. 1899, 336.

SECTION 2. Twelve thousand copies of said volume shall be printed, and the secretary shall, immediately after their publication, deposit one of said copies in his office and distribute others as follows: —

To the clerk of the senate, for the use of the senate, twelve copies;

To the clerk of the house of representatives, for the use of the house, twenty-four copies;

To each member of the general court, twenty copies, and to the clerks of each branch thereof, twenty copies;

To the librarian of the state library, for the use of the library, twenty-five copies;

To the governor, the lieutenant governor, the members of the executive council, the attorney general and his assistants, the treasurer and receiver general, the auditor of accounts, the adjutant general, every permanent state board or commission having an office and clerk, the senators and representatives in congress from this commonwealth, the justices, clerks and registers of the judicial courts, the reporter of decisions, trial justices, justices of the peace to issue warrants and take bail, district attorneys, masters in chancery, medical examiners, associate medical examiners, the controller of county accounts, county commissioners, county treasurers, registers of deeds, sheriffs, city and town clerks for the use of the respective cities and towns, the chief of the district police, the warden of the state prison, the superintendent of the Massachusetts reformatory, the superintendent of the reformatory prison for women, keepers of jails and houses of correction, superintendents of state insane hospitals and asylums, superintendents of the Lyman and industrial schools, superintendents of the state hospital and the state farm, the state fire marshal, Harvard University, Boston University, Clark University, Williams College, Amherst College, Tufts College, College of the Holy Cross, Boston College, Massachusetts Institute of Technology, Worcester Polytechnic Institute, Massachusetts Agricultural College, Wellesley College, Smith College, Mount Holyoke College, Radcliffe College, the law school of Harvard University, the law school of Boston University, the state normal schools, such high schools in the commonwealth as may apply therefor, such common school in each town having no high school as may be designated by the school committee, all free public libraries, the county law libraries, the Massachusetts Historical Society, the New England Historic-Genealogical Society, the Boston Athenæum, the American Antiquarian Society in Worcester, such other educational and historical institutions and organizations

as the secretary of the commonwealth, in his discretion, may designate, the justices of the supreme court of the United States, the judges and clerks of the United States circuit and district courts for the district of Massachusetts, one copy each; also a sufficient number to the clerks of the supreme judicial court and the superior court to supply two copies at each place where regular or adjourned sessions of said courts are held.

To the secretary of state of the United States, four copies; to the secretary of each of the United States for the use of such states, three copies; to the library of congress, three copies.

The remaining copies shall be subject to distribution by the secretary.

Pamphlet edition of acts and resolves. Res. 1847, 88. Res. 1850, 89. G. S. 3, § 3. 1865, 156. 1866, 65, § 3. 1877, 248, § 3. 1878, 264, § 3. 1880, 193, § 4. 1881, 293, § 3. P. S. 4, § 3. 1889, 212; 440, § 3. 1894, 393, § 3.

SECTION 3. The secretary of the commonwealth shall also, at the close of each session of the general court, cause to be published in pamphlet form twenty-five thousand copies of the acts and resolves passed and of any proposed amendments to the constitution agreed to during such session, and shall send a copy of each separate portion or signature of such edition, as soon as printed, to each of the following officers: the clerks of the several cities and towns, for the use of the inhabitants thereof, the justices, clerks and registers of the judicial courts, the district attorneys, the sheriffs, the trial justices, the justices of the peace to issue warrants and take bail, the county law libraries. He may also send copies of such signatures to such persons as apply therefor, charging not less than the cost of printing and postage. He shall cause the remaining copies of the pamphlet, except one thousand copies which he may reserve in his office for general distribution, to be apportioned according to the census and sent to the clerks of the several cities and towns, to be delivered by them to such inhabitants thereof as apply therefor; but if it appears from the representation of the clerk of a city or town that the number of copies to which such city or town is entitled is greater than the number applied for by its inhabitants, the number assigned thereto may be diminished.

Newspaper publication of general laws, etc. Res. 1855, 11. Res. 1857, 24. G. S. 3, § 4.

SECTION 4. The secretary shall, at an annual expense of not more than five hundred dollars, publish the general laws and other official information intended for the public, in such newspaper in the commonwealth as he may select.

1865, 193. P. S. 4, § 4. 1889, 440, § 4. 1894, 393, § 4.

PRINTING AND DISTRIBUTION OF PUBLIC DOCUMENTS, ETC.

Annual reports. 1857, 40, § 1. 1858, 46, § 1. G. S. 4, §§ 1, 9. P. S. 4, § 5. 1889, 440, § 5. 1894, 393, § 5.

SECTION 5. The annual reports which are required by law or custom to be made to the governor and council, to the general court, to the secretary of the commonwealth or to the governor to be by him transmitted to the general court shall, unless otherwise provided, include the year ending on the thirtieth day of September, and be submitted to the secretary of the commonwealth on or before the fifteenth day of October. Whoever wilfully neglects to make and transmit a report as required by this section shall forfeit ten dollars for each day such neglect continues.

Special reports. 1857, 40, § 11.

SECTION 6. Public officers, trustees of public institutions and boards shall, in addition to their annual reports, make special re-

G. S. 4, § 3.
P. S. 4, § 6.
1889, 440, § 6.
1894, 393, § 6.

ports if the public interest so requires, which shall be transmitted through the office of the secretary of the commonwealth.

Public documents.
1857, 40, § 2.
G. S. 4, § 2.
1863, 219.
1876, 178.
1877, 248, §§ 1, 5.
1878, 264, § 1.
1880, 193, § 1.
1881, 293, § 1.
P. S. 4, § 7.
1885, 369.
1889, 440, § 7.
1894, 393, § 7.
1896, 258.
1897, 243.
1901, 257.

SECTION 7. There shall be printed annually, before the assembling of the general court or as soon thereafter as possible, the number of copies of documents and reports hereinafter specified, the same to be numbered in a series to be called public documents. Said reports shall be as brief as possible without omitting any facts or information required by law to be contained therein. No maps, plans, photogravures, wood cuts or other pictorial illustrations shall be introduced unless specially authorized by the general court or either branch thereof or, if the cost does not exceed five hundred dollars, with the previous approval of the secretary of the commonwealth, acting as supervisor of state printing, and of the auditor of accounts; but said reports may include abstracts or compilations of the statutes relative to the subject-matter of the respective reports. They shall be transmitted to the general court through the office of the secretary of the commonwealth. No more copies than is herein provided for shall be printed at the expense of the commonwealth or be paid for out of any contingent fund, or out of the earnings of any department or institution which are the property of the commonwealth; and no bill for printing any larger number shall be approved by the auditor or paid out of any funds belonging to the commonwealth.

Reports of Executive and Military Officers.

Adjutant general.

Of the adjutant general, two thousand copies.

1870, 273, § 2. 1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1893, 438. 1894, 393, § 7.

Attorney general.
1876, 178.
1877, 248, § 1.
1878, 264, § 1.

Of the attorney general, twenty-five hundred copies, of which five hundred copies shall be for the use of the attorney general.

1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1895, 96. 1896, 175.

Auditor.
1858, 46, § 3.
1876, 178.

Of the auditor of accounts, fifteen hundred copies.

1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1894, 393, § 7.

Secretary of the commonwealth.

Of the secretary of the commonwealth, fifteen hundred copies.

1892, 262, § 2. 1894, 393, § 7.

Aggregates of polls, etc.

Aggregates of polls, property and taxes, fifteen hundred copies.

1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7.

Assessed polls, etc.
1894, 200.

Assessed polls, registered voters and votes cast, twenty-five hundred copies.

1897, 141.

Births, marriages and deaths, registration of.

Of registration of births, marriages and deaths, two thousand copies.

1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1884, 166, § 2. 1885, 369. 1889, 440, § 7. 1894, 393, § 7.

Abstract of returns of corporations, 1876, 178.

Abstract of returns of corporations, twenty-five hundred copies.

1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1894, 393, § 7.

Treasurer and receiver general.
1876, 178.
1877, 248, § 1.

Of the treasurer and receiver general, nineteen hundred copies.

1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1896, 189.

Reports of Boards and Commissions.

Of the secretary of the state board of agriculture, with an abstract of the report of the board of cattle commissioners, fifteen thousand copies. Such parts of said report as the secretary of the board may deem best adapted to promote the interests of agriculture may be published separately, for general distribution, the expense of such publication to be met out of the appropriation for the dissemination of useful information in agriculture. Agriculture. 1858, 46, §§ 3, 6. G. S. 4, § 4. 1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1888, 256, § 1. 1889, 440, § 7.

1894, 393, § 7; 491, § 51. 1899, 408, § 3. 1901, 130.

Of the board of conciliation and arbitration, two thousand copies, of which seven hundred copies shall be for the use of the board. Conciliation, etc. 1891, 191.

1894, 393, § 7.

Of the board of cattle commissioners, fifteen hundred copies, of which four hundred copies shall be for the use of the board. Cattle commissioners. 1887, 252, § 19.

1894, 393, § 7. 1897, 141.

Of the state board of charity, two thousand copies. There shall also be printed for the use of the board, five hundred copies of so much of said report as relates to city and town almshouses, together with that portion of the appendix called the pauper abstract, and one thousand copies of so much as relates to the returns made to the board by certain charitable corporations. Charity. 1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7. 1898, 320. 1901, 263.

Of the civil service commission, ten thousand copies. Civil service.

1894, 393, § 7. 1896, 86.

Of the board of registration in dentistry, twenty-five hundred copies. Dentistry, board of registration.

1889, 440, § 7. 1891, 76. 1894, 393, § 7.

Of the secretary of the state board of education, five thousand copies. Such parts of said report as the secretary of the board may deem best adapted to promote the interests of public schools may be published separately, for general distribution, the expense of such publication not to exceed in any one year the sum of five hundred dollars, to be met out of the appropriation for incidental and contingent expenses of the board. Education, secretary of board. 1858, 46, §§ 3, 6. G. S. 4, § 4. 1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369.

1889, 440, § 7. 1894, 393, § 7. 1898, 320. 1901, 112.

Of the board of gas and electric light commissioners, thirty-five hundred copies. Gas and electric light. 1886, 346, § 2.

1888, 122. 1894, 393, § 7.
1889, 440, § 7. 1895, 463, § 2.

Of the board of harbor and land commissioners, two thousand copies, of which five hundred copies shall be for the use of the board. Harbor and land. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1.

1881, 293, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7. 1896, 221. 1901, 469.

Of the state board of health, five thousand copies. Health. 1876, 178. 1877, 248, § 1.

1878, 264, § 1. 1881, 293, § 1. 1885, 369. 1894, 393, § 7.
1880, 193, § 1. P. S. 4, §§ 7, 10. 1889, 440, § 7.

Of the state highway commission, forty-five hundred copies. Highways.

1893, 476, § 3. 1894, 393, § 7. Res. 1897, 95. 1901, 263.

Of the commissioners on fisheries and game, two thousand copies. Fisheries and game.

1877, 248, § 1. 1880, 193, § 1. P. S. 4, § 7. 1894, 393, § 7.
1878, 264, § 1. 1881, 293, § 1. 1889, 440, § 7.

Of the state board of insanity, two thousand copies. Insanity.

1876, 178. 1878, 264, § 1. 1881, 293, § 1. 1889, 440, § 7.
1877, 248, § 1. 1880, 193, § 1. P. S. 4, § 7. 1894, 393, § 7.

Of the insurance commissioner, on fire and marine insurance, twenty-five hundred copies. Insurance. 1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1889, 35; 440, § 7.

Of the insurance commissioner, on life insurance, four thousand copies, of which one thousand copies shall be for the use of the commissioner.

1894, 393, § 7.
1895, 54.
1900, 386.

Of the insurance commissioner, on fraternal beneficiary corporations, fifteen hundred copies.

Of the "Texts and Tables" of the report of the insurance commissioner, five hundred copies.

Manufactures.
1886, 174.

Of statistics of manufactures, five thousand copies.

1889, 440, § 7. 1891, 193. 1894, 393, § 7. 1900, 225.

Labor.
1876, 178.
1877, 248, § 1.
1878, 264, § 1.
1880, 193, § 1.
1881, 293, § 1.
P. S. 4, § 7.
1882, 6, § 1.
1885, 369.
1886, 174, § 3.
1888, 23.
1889, 124; 440, § 7.
1890, 97.
1894, 393, § 7.
1900, 225.

Of statistics of labor, six thousand copies.

The two last named reports may be issued in parts complete in themselves, each of which shall contain related or comparable information upon the subjects thereof and shall constitute a part of the number allowed. The reports or parts thereof may be electrotyped. One thousand copies of the parts shall be bound in pamphlet form and distributed by the chief of the bureau. Five hundred copies of the part of each of said reports relative to the labor and industrial chronology may be bound together. The copy of each part shall upon the day of publication be transmitted to the general court if in session.

Library.
1890, 347, § 2.
1897, 134.

Of the board of free public library commissioners, two thousand copies.

Medicine, board of registration in.
1897, 141.

Of the board of registration in medicine, thirty-five hundred copies, of which twenty-five hundred copies shall be for the use of the board.

Nautical training school.
1897, 141.

Of the commissioners of the nautical training school, fifteen hundred copies.

Parks, metropolitan.

Of the metropolitan park commission, four thousand copies.

1893, 407, § 2. 1894, 393, § 7. 1897, 141.

Pharmacy, board of registration in.

Of the board of registration in pharmacy, fifteen hundred copies.

1889, 440, § 7. 1894, 393, § 7.

Police board, Boston.

Of the board of police of the city of Boston, fifteen hundred copies.

1885, 323, § 1. 1894, 393, § 7.

—Fall River.
1894, 351, § 7.
1897, 141.

Of the board of police of the city of Fall River, fifteen hundred copies.

Public records.
1894, 393, § 7.
1898, 320.

Of the commissioner of public records, two thousand copies, of which five hundred copies shall be for the use of the commissioner.

Railroad.
1876, 178.
1877, 248, § 1.
1878, 264, § 1.
1880, 193, § 1.

Of the board of railroad commissioners, four thousand two hundred and fifty copies, of which two thousand two hundred and fifty copies shall be bound without returns.

1881, 293, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7.

Savings banks.
1876, 178.
1877, 248, § 1.
1878, 248, § 1.
1880, 193, § 1.
1881, 293, § 1.
P. S. 4, § 7.
1885, 369.
1888, 191.
1889, 440, § 7.
1890, 126, § 1.
1893, 70.
1894, 393, § 7.
1901, 114, 240.

Of the board of commissioners of savings banks, on savings banks, institutions for savings, safe deposit and loan and trust companies, twenty-eight hundred copies, and one hundred additional copies of said report, exclusive of the abstract of annual reports.

Of the board of commissioners of savings banks, on co-operative banks and loan companies, two thousand copies, and one hundred additional copies of said report, exclusive of the abstract of annual reports.

Tax commissioner.

Of the tax commissioner, two thousand copies.

1877, 248, § 1. 1878, 264, § 7. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7. 1897, 141.

Water and sewerage, metropolitan board.

Of the metropolitan water and sewerage board, forty-five hundred copies.

1891, 292. 1894, 393, § 7. 1895, 488, § 2. 1896, 223. 1897, 141. 1901, 168.

Reports of Public Institutions.

Agricultural college. P. S. 4, § 9. 1882, 212. 1885, 369. 1888, 256, § 2. 1889, 164; 440, § 7. 1894, 393, § 7. 1897, 141.

Of the trustees of the Massachusetts agricultural college, five thousand copies, of which thirty-five hundred copies shall be for the use of said college. Of that portion of said report referring to the Hatch experiment station, twenty-five thousand extra copies, of which fifteen thousand shall be bound with the report of the secretary of the state board of agriculture and of which eight thousand shall be for the use of the trustees.

Dairy bureau, state. 1897, 141.

Of the state dairy bureau, fifteen hundred copies.

Dipsomaniacs and inebriates, hospital for. 1893, 223. 1894, 396, § 7.

Of the trustees of the Massachusetts hospital for dipsomaniacs and inebriates, two thousand copies.

Epileptics, hospital for. 1894, 393, § 7.

Of the trustees of the Massachusetts hospital for epileptics, fifteen hundred copies.

Farm, state. 1876, 178.

Of the trustees of the state farm, twenty-five hundred copies.

1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. P. S. 4, § 7. 1887, 264. 1889, 440, § 7. 1894, 393, § 7. 1898, 320.

Feeble-minded, school for. 1876, 198.

Of the Massachusetts school for the feeble-minded, fifteen hundred copies.

1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. P. S. 4, § 7. 1888, 186. 1889, 440, § 7. 1894, 393, § 7.

Hospital, state.

Of the trustees of the state hospital, twenty-five hundred copies.

1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1884, 166, § 2. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1898, 320.

Insane hospitals. 1876, 178. 1877, 248, § 1. 1878, 264, § 1.

Of the trustees of the insane hospitals at Danvers, Northampton, Taunton, Westborough and Worcester, two thousand copies each, and of the Medfield insane asylum, fifteen hundred copies.

1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1884, 166, § 2. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1897, 141.

Lyman and industrial schools.

Of the trustees of the state Lyman and industrial schools, two thousand copies.

1876, 178. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1889, 440, § 7. 1894, 393, § 7. 1895, 428, § 2. 1897, 141.

Massachusetts sanatorium.

Of the trustees of the Massachusetts state sanatorium, twenty-five hundred copies.

1900, 192. 1901, 263.

Perkins institution and Massachusetts school for the blind. 1876, 178.

Of the trustees of the Perkins institution and Massachusetts school for the blind, one thousand two hundred and fifty copies.

1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1885, 369. 1889, 440, § 7. 1894, 393, § 7.

Prison commissioners. 1877, 248, § 1. 1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1884, 255, § 31. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1899, 309.

Of the board of prison commissioners, two thousand copies; of that portion referring to the state prison, five hundred copies for the use of the warden; of that portion referring to the Massachusetts reformatory, five hundred copies for the use of the superintendent; of that portion referring to the reformatory prison for women, five hundred copies for the use of the superintendent; and of that portion referring to the agent for aiding discharged convicts, two hundred and fifty copies for the use of the agent.

Miscellaneous Reports.

Contested elections. Res. 1882, 61. Res. 1883, 8.

Of cases of contested elections, fifteen hundred copies, of which five hundred copies shall be for the use of the general court.

Res. 1885, 60. Res. 1886, 36. 1889, 440, § 7. 1894, 393, § 7.

Accounts of county officers, controller of. 1887, 438, § 6.

Of the controller of accounts of county officers, fifteen hundred copies, of which five hundred copies shall be for the use of the controller.

1888, 275, § 2. 1891, 292. 1894, 393, § 7.

District police, chief of.

Of the chief of the district police, twenty-five hundred copies.

1877, 248, § 1. 1878, 264, § 1. P. S. 3, § 11. 1885, 369. 1889, 440, § 7. 1894, 393, § 7. 1897, 141. 1898, 320.

Gas, etc., inspector of.

Of the inspector of gas and gas meters, fifteen hundred copies.

1894, 393, § 7.

Librarian of state library.
1876, 178.
1877, 248, § 1.

Of the librarian of the state library, fifteen hundred copies.

1878, 264, § 1. 1880, 193, § 1. 1881, 293, § 1. P. S. 4, § 7. 1884, 166, § 2. 1885, 369. 1889, 440, § 7. 1894, 393, § 7.

All other reports.
1894, 393, § 7.

Unless otherwise expressly provided, all the reports of permanent state officers, boards and commissions shall be included in the public document series, and fifteen hundred copies of each of said reports shall be printed.

Distribution of public documents.
1857, 40, § 9.
G. S. 4, § 8.
1877, 248, §§ 2, 4.
1878, 264, § 2.
1880, 193, § 2.
1881, 293, § 2.
P. S. 4, §§ 8, 10.
1889, 440, § 8.
1894, 393, § 8.

SECTION 8. The secretary of the commonwealth shall furnish one copy of the series of public documents named in the preceding section to each member of the legislative and executive departments, to the clerk of each branch of the general court and to the reporters assigned to seats in either branch. He shall also furnish one copy to each city and town in the commonwealth, to be preserved in a public place therein, and one copy each to such public and other libraries as he may select.

Ten copies shall be placed in the state library for the use of said library and for exchange.

Additional copies of certain reports.

Each member of the general court and the clerk of each branch thereof shall also be entitled to receive twenty-four additional copies of the report of the secretary of the board of agriculture, seven additional copies of the report of the board of health, and of the report of the bureau of statistics of labor; five additional copies of the report of the secretary of the board of education, and of the report of statistics of manufactures.

Printing of journals of senate and house, etc. Distribution.
1877, 248, § 4.
1878, 264, § 4.
1880, 193, § 4.
1881, 293, §§ 3, 4.
P. S. 4, §§ 9, 10.
1882, 158.
1889, 150; 440, §§ 9, 10.
1894, 393, §§ 9, 10.

SECTION 9. The clerks of the two branches of the general court shall annually prepare and cause to be printed the following: —

Of the journals of the senate and house of representatives, one thousand copies.

Of the list of members and committees of the general court, twelve hundred copies.

Of a book containing the rules of the two branches of the general court, with notes of rulings of the presiding officers, and a list of members and committees of the general court, in a form convenient for pocket use, seven hundred copies, of which three hundred and fifty copies shall be bound in memorandum book form for the use of members and officers of the general court.

Distribution.

The foregoing publications shall, under the direction of the clerks of the two branches, be distributed as follows: — One copy to each member of the executive department, to each member of the general court, to the clerks and assistant clerks thereof, and to each reporter to whom is assigned a seat in either branch; ten copies to the state library for use therein and for exchange; and to each free public library in the commonwealth, one copy of the journals of the senate and of the house of representatives, to be sent by the secretary of the commonwealth.

There shall be printed nine hundred copies of the governor's address for the use of the general court, and eleven hundred copies in addition, five hundred copies of which shall be for the personal use of the governor.

Manual of the general court.
1876, 178.
1877, 248, § 3.
1878, 264, § 3.
1880, 193, §§ 3, 4.
1881, 293, § 3.
P. S. 4, §§ 9, 10.
1883, 55.
1885, 369, § 3.
1888, 85.
1889, 32.
1891, 292.
1894, 393, §§ 9, 10.
1901, 210.

SECTION 10. The clerks of the two branches shall also annually prepare a manual of the general court, of which thirteen thousand five hundred copies shall be printed and distributed as follows: —

To each member of the executive department, to the clerk and assistant clerk of each branch of the general court and to each reporter to whom is assigned a seat in either branch, one copy; to each member of the general court, thirty-four copies, and to the state library, ten copies. Three hundred copies shall be reserved for the use of the succeeding general court and fifty copies shall be placed in the state library for the purpose of exchange. The secretary of the commonwealth shall send one copy of the manual to each free public library in the commonwealth, to each city and town clerk for the use of said city or town, to the justices, clerks and registers of the judicial courts, the trial justices, registers of deeds, county commissioners, treasurers and sheriffs of the several counties, medical examiners, associate medical examiners, the trustees and superintendents of the several state institutions, each of the officers of the several state boards and commissions, and to the principals of the state normal schools. The remaining copies of the manual and of the lists of members and committees shall be distributed by the clerks of the two branches, at their discretion, preference being given to members of the general court and state officers.

Books, etc., to be furnished to new towns.
1877, 150, § 1.
P. S. 4, § 12.
1887, 118.
1889, 440, § 12.
1894, 393, § 11.

SECTION 11. The secretary of the commonwealth shall furnish to every town the reports of the decisions of the supreme judicial court from time to time, as published, and shall furnish to every town hereafter incorporated a full set of the reports of the decisions of the supreme judicial court, the index-digest thereof, a copy of the Revised Laws, and copies of all such books and documents in his office as shall have been previously furnished to towns by the commonwealth; but the clerk of such town shall first file with the secretary a certificate in writing that the town has made suitable provision for the preservation and convenient use of such books and documents.

Not to be again supplied.
1877, 150, § 2.
P. S. 4, § 13.
1889, 440, § 13.
1894, 393, § 12.

SECTION 12. A town which has once been furnished with such books and documents shall not be again supplied with the same at the expense of the commonwealth. Towns may effect insurance thereon for their own benefit.

Distribution of laws, etc., to members of the general court.
1894, 393, § 13.

SECTION 13. The secretary of the commonwealth shall, in the distribution of laws and documents to members of the general court, effect such exchanges among members as they shall direct; and he is hereby authorized to employ such additional clerical or other assistance as may be necessary for the purpose. Copies of the laws and documents apportioned to members of the general court which remain undisposed of for three months after the expiration of the terms of office of the members to whom they have been apportioned, shall revert to the commonwealth and be subject to general distribution.

Supervision of state printing.
1893, 287.
1894, 393, § 14.
1896, 248.

SECTION 14. The secretary of the commonwealth shall supervise the state printing, and all publications by the commonwealth shall be printed and distributed under his direction unless otherwise

provided. The auditor of accounts shall cause all printing done under the state printing contract to be measured, and no bills for printing shall be allowed unless found to be in strict conformity with said contract.

Postage and expressage on public documents. 1889, 53.

SECTION 15. Postage and express charges on legislative and other documents forwarded to members of the general court and to free public libraries shall be prepaid by the commonwealth.

1892, 422. 1895, 93.

CHAPTER 10.

OF THE STATE HOUSE, THE SERGEANT-AT-ARMS AND THE STATE LIBRARY.

SECTIONS 1–22. — The State House and the Sergeant-at-Arms.
SECTIONS 23–30. — The State Library.

THE STATE HOUSE AND THE SERGEANT-AT-ARMS.

Sergeant-at-arms, choice, removal, etc. 1835, 154. R. S. 13, §§ 58, 64. G. S. 14, § 49. P. S. 5, § 1.

SECTION 1. The general court shall annually in January choose a sergeant-at-arms who shall hold office until he is removed or until another is chosen in his stead. He may be removed by the general court or, during its recess, may be suspended by the governor and council. If a vacancy or suspension occurs during such recess, the governor and council may appoint a person to perform the duties of the office until a new election.

Assistant sergeant-at-arms, how appointed, etc. 1863, 87, §§ 1, 2. P. S. 5, § 2.

SECTION 2. In case of the disability or necessary absence of the sergeant-at-arms, he may appoint, with the approval of the presiding officers of the two branches of the general court or, during its recess, of the governor, an assistant sergeant-at-arms to perform the duties of his office during such disability or absence. His compensation shall be paid by the sergeant-at-arms, who shall be responsible for his fidelity and good conduct in office; but for misconduct or other sufficient cause, he may be removed by the general court or, during its recess, by the governor and council.

Bond and duties of sergeant-at-arms. R. S. 13, §§ 58–60. G. S. 14, §§ 50, 51. P. S. 5, § 3. 1895, 284, § 3.

SECTION 3. The sergeant-at-arms shall give bond to the treasurer and receiver general in the sum of ten thousand dollars, conditioned faithfully to perform his official duties and properly to account for all money intrusted to him for the use of the commonwealth. He shall serve such processes and execute such orders as may be enjoined upon him by the general court or by either branch thereof, attend the members or clerks of either branch when they are charged with a message from one branch to the other or to the governor and council, maintain order among the spectators admitted into the chambers in which the respective branches hold their sessions, take proper measures to prevent the interruption of either branch or of the committees thereof; and shall have the control of, and exercise a strict superintendence over, his subordinate officers, giving them all needful directions and taking care that they promptly perform their duties.

SECTION 4. He shall have general charge and oversight of the state house and its appurtenances and of any other buildings in Boston owned by or leased to the commonwealth for the use of public officers, and shall see that the chambers and lobbies of the general court and its committees are kept clean and in good order; shall superintend all ordinary repairs thereof and shall have charge of the current expenses for the care and preservation of the state house and its appurtenances, and for the ordinary repairs of the furniture and fixtures therein. He shall take proper precautions against damage thereto, or to the furniture, fixtures or other public property therein. All repairs, improvements, furniture, fixtures or other like supplies required in the state house or in any other building or part thereof owned by or leased to the commonwealth for the use of public officers shall be made or furnished only by a requisition upon the sergeant-at-arms, signed by the head or chief clerk of a department and approved by the sergeant-at-arms or, as to new furniture or fixtures, by the state house commission.

Care of state house.
R. S. 13, § 60.
G. S. 14, §§ 51, 52.
P. S. 5, § 4.
1887, 128, § 1.
1895, 284, § 1.
[1 Op. A. G. 231.]

SECTION 5. He shall, immediately after his election, with the approval of its presiding officer, appoint a doorkeeper for each branch and such assistant doorkeepers as it may direct, together with a postmaster, messengers and pages, who shall, during the session, assist him as required.

Doorkeepers, appointment of.
R. S. 13, § 59.
G. S. 14, § 54.
P. S. 5, § 5.

SECTION 6. He shall, annually, with the approval of the secretary and the treasurer and receiver general, appoint a clerk, who shall also act as clerk of the state house commission, and three sergeant-at-arms' messengers, whom he may at any time remove and for whose fidelity and good conduct he shall be responsible.

Clerk and messengers, appointment of.
1881, 275, § 1.
P. S. 5, § 6.
1887, 128.

SECTION 7. The sergeant-at-arms' messengers shall act as document clerks, messengers to the several departments, except that of the secretary of the commonwealth, and shall perform such other duties as the sergeant-at-arms may require.

Duties of messengers.
1881, 275, § 3.
P. S. 5, § 7.

SECTION 8. The sergeant-at-arms shall take proper care to prevent the commission of any trespass on, or injury to, the state house or its appurtenances, or any other building in Boston owned by or leased to the commonwealth for public offices; and if any such trespass or injury is committed, he shall cause the offender to be prosecuted therefor. For any criminal offence committed in any part of the state house or the grounds appurtenant thereto, or in any other building in Boston owned by or leased to the commonwealth, the sergeant-at-arms, his messengers and watchmen shall have the same power to make arrests as the police officers of the city of Boston.

Prevention of trespasses at state house.
1881, 275, § 2.
P. S. 5, § 8.
1887, 128.
1895, 284, § 4.

SECTION 9. He may appoint a chief engineer, who shall have charge of the heating, lighting and ventilation of the state house, and assistant engineers, electricians, firemen, oilers and cleaners, a steam fitter and a helper, such as may be necessary in the engineer's department; watchmen and assistant watchmen; a stenographer; a matron; a gardener; an office boy; and such elevator men and porters as may be required for duty at the state house.

Engineer, etc., appointment of.
1868, 341.
1881, 275, § 5.
P. S. 5, § 9.
1887, 128.
Res. 1895, 68.

The sergeant-at-arms shall be responsible for the fitness and good conduct of all the aforesaid officers and may remove them at his discretion.

Salary of sergeant-at-arms, etc.
R. S. 13, § 65.
1836, 247.
1837, 13.
1843, 9.
1845, 206.
1846, 238.
1853, 119.
1854, 131, § 1.

SECTION 10. The annual salary of the sergeant-at-arms shall be thirty-five hundred dollars; of his first clerk, twenty-two hundred dollars; of each of his messengers, eleven hundred dollars; of the messenger to the treasurer and receiver general, sixteen hundred dollars.

1859, 176. G. S. 14, § 50. 1867, 305. P. S. 5, § 10. 1884, 333. 1887, 128. 1893, 358, 409. 1895, 284, § 2.

— of doorkeepers, etc.
1858, 2, § 7.
G. S. 2, § 19.
1865, 228.
1872, 7.
1880, 212, § 1.
P. S. 2, § 17.
1882, 257, § 2.

SECTION 11. The doorkeepers of the senate and house of representatives shall each receive an annual salary of fifteen hundred dollars. The assistant doorkeepers of the senate and house of representatives and the postmaster shall each receive nine hundred and fifty dollars for the regular annual session of the general court.

1887, 116, § 1. 1895, 193, § 1.

— of messengers.
1858, 2, § 7.
G. S. 2, § 19.
1865, 228.
1872, 7.
1880, 212, § 1.

SECTION 12. Each messenger of the senate and house of representatives shall receive eight hundred and fifty dollars in full for all services required of him at the regular annual session of the general court. P. S. 2, § 17. 1882, 257, § 2. 1887, 116, § 2. 1895, 193, § 2.

— of pages.
1858, 2, § 7.
G. S. 2, § 19.
1865, 228.
1872, 7.

SECTION 13. The compensation of the pages of the senate and house of representatives shall be five hundred and ten dollars each for the regular annual session.

1880, 212, § 2. P. S. 2, § 18. 1882, 257, § 3. 1887, 116, § 3. 1895, 193, § 3.

Compensation for extra services.
1880, 212, § 3.
P. S. 2, § 19.

SECTION 14. If any of the persons named in the three preceding sections not receiving an annual salary are employed after the regular annual session, they shall receive for each day's service an amount not exceeding three dollars.

Number of doorkeepers, etc., authorized.
1879, 78, § 10.

SECTION 15. The number of doorkeepers, assistant doorkeepers, messengers, and pages of the senate and house shall not exceed thirty-eight in all. P. S. 2, § 27. 1882, 257, § 4. 1895, 11.

Fees forbidden.
1835, 151.
R. S. 13, § 65.
G. S. 14, § 61.
P. S. 5, § 11.

SECTION 16. No fee or reward shall be taken by the sergeant-at-arms or by any person under him for opening the public rooms in the state house for the view and inspection of visitors.

State house commission.
Res. 1856, 71.
1857, 65, §§ 2, 3.
G. S. 14, § 62.
P. S. 5, § 12.
1887, 128.

SECTION 17. The secretary of the commonwealth, the treasurer and receiver general and the sergeant-at-arms shall constitute a commission, without compensation, to have charge of the appropriations for new furniture and fixtures in the state house and in any other building or part thereof owned by or leased to the commonwealth for the use of public officers. No expense shall be incurred for said purposes unless previously authorized by said commission and unless the same is within the amount appropriated by the general court, except that in case of damage to the state house, by fire or other casualty, during the recess of the general court, the commissioners may make all repairs necessary for the protection and preservation of the building.

SECTION 18. Said commission may expend not more than fifteen hundred dollars annually for the maintenance of the museum established in the state house for the preservation and exhibition of the regimental flags and other military relics in the possession of the commonwealth and of other objects connected with the military history of the United States and especially of the New England states. Military museum. 1897, 204.

SECTION 19. There shall be a joint standing committee on the state house, consisting of three members of the senate and eight of the house, who shall report to the general court what repairs and improvements upon the state house and the grounds connected therewith, and in any other building or part thereof owned by or leased to the commonwealth for the use of public officers are necessary, with an estimate of the expense. Joint standing committee on state house. 1857, 65, § 1. G. S. 5, § 9. P. S. 5, § 13.

SECTION 20. The land now taken by the commonwealth about the state house shall remain an open space, and no railroad or railway shall be constructed or operated in, upon or over the same. A grant made to a railroad or railway corporation shall not be construed to include any portion of said land. Land around state house to remain open. 1894, 532, § 6.

SECTION 21. There shall be set apart a suitably furnished room or rooms in the state house, to be under the charge of the commander of the grand army of the republic of the department of Massachusetts, subject to the provisions of this chapter. Said room or rooms shall be used by such department for headquarters and for storing its supplies and property, relics and mementos of the war and for arranging and preserving the history of persons who served in the army, navy or marine corps during the war of the rebellion in organizations of this commonwealth, or of citizens of this commonwealth who served in the regular army, navy or marine corps of the United States, which said department may collect and desire to preserve. Such histories, relics and mementos shall be accessible at all times, under suitable regulations, to members of the grand army of the republic and to persons collecting historical information, and with such property shall when said department ceases to exist, become the property of the commonwealth. Rooms for grand army of the republic. 1893, 411, §§ 1, 2.

SECTION 22. The governor, with the advice and consent of the council, may expend, for the purpose of procuring portraits of the governors of the commonwealth who shall have held office subsequent to the fourth day of May in the year nineteen hundred, not more than one thousand dollars for each such portrait, and such portrait shall be hung in the state house under the direction of the state house commission. Portraits of former governors. Res. 1890, 58. Res. 1895, 54. 1900, 297, §§ 1, 3.

THE STATE LIBRARY.

SECTION 23. There shall be a state library in the state house which shall be kept open every day except Sundays and legal holidays for the use of the governor, lieutenant governor, council, general court and such officers of the government and other persons as may be permitted to use it. State library. 1825, 123, § 1. R. S. 11, § 9. 1849, 155, § 2. G. S. 5, § 1. P. S. 5, § 14.

Trustees of state library.
1850, 182, § 1.
G. S. 5, § 2.
P. S. 5, § 15.
1893, 86, § 1.

SECTION 24. The library shall be under the management and control of three trustees, one of whom shall be annually appointed by the governor with the advice and consent of the council for a term of three years from the first day of June of the year in which he is appointed.

Duties of trustees.
1825, 123, § 3.
R. S. 11, § 11.
G. S. 5, § 3.
1870, 150.
P. S. 5, § 16.

SECTION 25. The trustees shall superintend the library and may sell or otherwise dispose of such books belonging to it as they consider unsuitable for its purposes, and they may deposit any duplicate volumes for safe keeping and use in any town, city or college library in the commonwealth, upon such terms and conditions as they shall prescribe. They may make and enforce rules for the use of the library, and shall see that its apartments are properly prepared for the accommodation of persons permitted to use them.

Librarian, appointment of.
1825, 123, § 1.
R. S. 11, §§ 10, 11.
1849, 155, § 1.
1859, 64.

SECTION 26. The governor, with the advice and consent of the council, shall appoint the librarian of the state library who shall hold office during their pleasure and shall receive an annual salary of three thousand dollars. G. S. 5, § 4. 1866, 298, § 5. P. S. 5, § 17. 1887, 209. 1892, 287. 1893, 86, § 2.

Assistance; index of current events.
G. S. 5, § 5.
Res. 1861, 33.
Res. 1866, 28.
Res. 1867, 22.
Res. 1869, 68.
Res. 1873, 28.
P. S. 5, § 18.
1882, 29.
1886, 66.

SECTION 27. The trustees and librarian, at an annual expense not exceeding forty-three hundred dollars, may employ the assistance necessary for the accommodation of visitors, for the protection and care of the library and for any service required by the librarian; and at an annual expense not exceeding one thousand dollars, they may prepare an index of current events and other important matters contained in the newspapers of the day. 1891, 24. 1892, 140. 1899, 192.

Books belonging to commonwealth to be placed in state library.
1825, 123, § 1.
R. S. 11, § 10.
1849, 155, § 2.
G. S. 5, § 6.
P. S. 5, § 19.

SECTION 28. All books, maps, documents and other publications belonging to the commonwealth for public use, except such as by order of the respective departments of the government are retained in the chambers of the senate and the house of representatives or in the department of the secretary of the commonwealth shall be deposited and suitably arranged in the library.

Annual appropriation for library.
1825, 123, § 4.
R. S. 11, § 12.
G. S. 5, § 7.
P. S. 5, § 20.
1882, 196.
1888, 24.
1897, 114.

SECTION 29. There shall be annually appropriated six thousand five hundred dollars for the library, which may be expended under the direction of the trustees and librarian in procuring such books, maps, charts and other works, as they consider useful, in binding and keeping in good condition the works in said library and in purchasing furniture and other conveniences therefor.

Annual report of librarian.
1849, 155, § 3.
G. S. 5, § 8.
P. S. 5, § 21.

SECTION 30. The librarian shall annually report to the general court the receipts and expenditures on account of the library, with a list of books, maps and charts, lost, missing or acquired during the preceding year, specifying those obtained by exchange, gift or purchase; and make suggestions for the improvement of the library.

TITLE II.

CHAPTER 11.

OF ELECTIONS.

SECTIONS 1–11. — General Provisions.
SECTIONS 12–14. — Qualifications of Voters.
SECTIONS 15–23. — Assessment of Poll Taxes and Lists of Persons Assessed.
SECTIONS 24–34. — Registrars of Voters.
SECTIONS 35–59. — Registration of Voters.
SECTIONS 60–68. — Voting Lists.
SECTIONS 69–79. — Registration of Voters and Voting Lists in Boston.
SECTIONS 80–84. — Political Committees.
SECTIONS 85–94. — Provisions Applying to All Caucuses of Political Parties.
SECTIONS 95–98. — Provisions Applying to Caucuses of Political Parties except in Boston and in Certain Cities and Towns.
SECTIONS 99–131. — Provisions Applying to Caucuses of Political Parties in Boston and Certain Cities and Towns.
SECTIONS 132–135. — Provisions Applying to Caucuses other than those of Political Parties.
SECTIONS 136–155. — Nomination of Candidates.
SECTIONS 156–160. — State Ballot Law Commission.
SECTIONS 161–170. — Wards and Voting Precincts.
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SECTIONS 186, 187. — Voting Places.
SECTIONS 188–194. — Election Apparatus and Blanks.
SECTIONS 195–202. — Preparation and Form of Ballots.
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SECTIONS 211–213. — Calling of Elections.
SECTIONS 214–224. — Conduct of Elections.
SECTIONS 225–235. — Manner of Voting.
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SECTIONS 242–265. — Records and Certificates of Election.
SECTIONS 266–269. — Recounts of Votes.
SECTIONS 270–273. — Voting Machines and Apparatus.
SECTIONS 274–282. — Proceedings in Cases of Failure to Elect, and Vacancies in State Offices.
SECTIONS 283, 284. — Proceedings of Presidential Electors.
SECTIONS 285–306. — Corrupt Practices.
SECTIONS 307–313. — Inquests in Election Cases.
SECTIONS 314–326. — Officers to be Elected at State Elections.
SECTIONS 327–333. — Provisions Applicable to Town Meetings.
SECTIONS 334–354. — Election of Town Officers.
SECTIONS 355–363. — Proceedings in Cases of Failure to Elect, and Vacancies in Town Offices.

SECTIONS 364, 365. — Town Elections at Which Official Ballots are Used.
SECTIONS 366–380. — Penalties Upon Officers.
SECTIONS 381–386. — Penalties Upon Voters.
SECTIONS 387–421. — General Penalties.
SECTION 422. — Congressional Districts.
SECTION 423. — Councillor Districts.
SECTION 424. — Senatorial Districts.
SECTIONS 425, 426. — Apportionment of Representatives.

GENERAL PROVISIONS.

Terms defined.
1888, 436, § 1.
1889, 413, § 1.
1890, 423, § 1.
1892, 351, § 1; 416, § 6.
1893, 417, §§ 2, 231.
1894, 504, § 1.
1895, 449, § 3; 489, § 2; 507, § 1.
1897, 530, § 1.
1898, 548, § 1.

SECTION 1. Terms used in this chapter and in statutes relative to elections shall be construed as follows, unless other meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intent of the legislature:

"Assessors" shall mean the assessors of taxes of a city or town.

"Caucus" shall apply to any public meeting of the voters of a ward of a city, or of a town, or of a representative district held under the provisions of this chapter for the nomination of a candidate for election, for the election of a political committee or of delegates to a political convention.

"Caucus officers" shall apply to chairmen, wardens, secretaries, clerks and inspectors, and, when on duty, to additional officers specially elected, or elected to fill a vacancy, and taking part in the conduct of caucuses.

"City election" shall apply to any election held in a city for the choice of a city officer by the voters whether for a full term or for the filling of a vacancy.

"City officer" shall apply to any person to be chosen by the voters at a city election.

"Election" shall apply to the taking of a vote upon a proposed amendment to the constitution; upon the question of granting licenses for the sale of intoxicating liquors; and upon any other question by law submitted to the voters.

"Election officer" shall apply to wardens, clerks, inspectors and ballot clerks, and to their deputies when on duty, and also to selectmen, town clerks, moderators and tellers when taking part in the conduct of elections.

"Elective office" shall apply to any office to be filled by the voters at any state, city or town election.

"Official ballot" shall mean a ballot prepared for any election or caucus by public authority and at public expense.

"Political committee" shall apply only to a committee elected in pursuance of this chapter.

"Political convention" shall apply only to a convention called and held in pursuance of this chapter.

"Political party" shall apply to a party which at the preceding annual state election polled for governor at least three per cent of the entire vote cast in the commonwealth for that office.

"Polling place" shall apply to a room or place provided by a city or town for an election or caucus.

"Presiding officer" shall apply to the warden or chairman at a caucus, to the warden, chairman of the selectmen, moderator or town clerk in charge of a polling place at an election, or to a justice of the peace acting as moderator at a town meeting; or, in the

absence of any such officer, to the deputy warden or the clerk or senior inspector or senior selectman present who shall have charge of a polling place.

"Registrars" shall mean the board of registrars of voters of a city or town or the board of election commissioners of the city of Boston, when applicable.

"State election" shall apply to any election held for the choice of a national, state, district or county officer by the voters, whether for a full term or for the filling of a vacancy.

"State officer" shall apply to any person to be chosen at a state election.

"Town election" shall apply to any meeting held for the election of town officers by the voters, whether for a full term or for the filling of a vacancy.

"Town elections or meetings at which official ballots are used" shall be construed to mean town elections or meetings in towns to which section three hundred and sixty-four applies.

"Town officer" shall apply to any person to be chosen at a town meeting.

"Two leading political parties" shall apply to the political parties which cast the highest and next highest number of votes for governor at the preceding annual state election.

"Voter" shall mean a registered male voter.

Results of election, how determined. Amend. const., art. 14. 1856, 157. 1857, 185. G. S. 7, § 14. P. S. 7, § 25. 1890, 423, § 96. 1893, 417, § 3. 1898, 548, § 2.

SECTION 2. In all elections of civil officers by the people, the person receiving the highest number of votes for an office shall be deemed and declared to be elected to such office; and if two or more persons are to be elected to the same office, the several persons, to the number to be chosen to such office, receiving the highest number of votes, shall be deemed and declared to be elected; but persons receiving the same number of votes shall not be deemed to be elected if thereby a greater number would be elected than are by law to be chosen.

Elections in cities to be on Tuesdays. 1874, 376, § 53. P. S. 7, § 67.

SECTION 3. All elections in cities which by charter or statute are to be held on a Monday, shall be held on the Tuesday next succeeding such Monday. 1890, 423, § 142. 1893, 417, § 4. 1898, 548, § 3.

Time, how computed in election laws. 1890, 423, § 187. 1891, 74, § 1. 1893, 417, § 5. 1898, 548, § 4.

SECTION 4. In computing the period of time prescribed in any statute relating to elections, Sundays and holidays shall generally be included; but when the last day of such period falls on a Sunday or on a holiday the succeeding day shall be considered the final day of such period; and when the first day of such period falls on a Sunday or on a holiday, the day preceding shall be considered the first day of the period.

Time to be allowed for voting of employees. 1887, 272, § 1. 1890, 423, § 143. 1893, 417, § 7. 1894, 508, § 4. 1898, 548, § 5.

SECTION 5. No person entitled to vote at a state election shall, upon the day of any such election, be employed in any manufacturing, mechanical or mercantile establishment, except such as may lawfully conduct its business on Sunday, during the period of two hours after the opening of the polls in the voting precinct or town in which he is entitled to vote, if he shall make application for leave of absence during such period.

Sale of intoxicating liquors.
1885, 246.
1889, 186, 361.
1893, 417, § 9.
1898, 548, § 6.

SECTION 6. No common victualler having a license of the first, second or third class for the sale of intoxicating liquors and no person, other than a wholesale druggist, having a license therefor of the fourth or fifth class shall sell, give away or deliver on the licensed premises any such liquors on the day on which a state, city or annual town election is held in the city or town in which such premises are situated; and no innkeeper having a license for the sale of intoxicating liquors shall, on the day of any such election, sell, give away or deliver in his inn any such liquors to other than guests duly registered therein; but the provisions of this section shall not apply, in case of an election held in a city on a day other than that of the annual city election therein, to wards in which no election is held.

Posting notices, etc.
1892, 351, § 37.
1893, 417, § 8.
1898, 548, § 7.

SECTION 7. All lists, notices and copies of laws relating to elections, required by law to be posted, shall be posted at the places in which the voting lists are required by law to be posted, or as near as may be thereto.

Election commissioners in Boston, powers and duties.
1895, 449, § 4.
1898, 548, § 9.

SECTION 8. All the powers and duties relating to caucuses or elections by law vested in and imposed upon the mayor and aldermen or either of them, the city clerk or the board of registrars of voters in cities, excepting the power and duty of giving notice of elections, and fixing the days and hours of holding the same, shall, in the city of Boston, be vested in and performed by the board of election commissioners of said city, who shall be subject to all penalties prescribed for failure to perform the said duties.

Municipal regulations.
1884, 299, § 18.
1890, 423, § 94.
1893, 417, §§ 126, 155, 205.
1898, 548, § 8.

SECTION 9. The board of aldermen of a city or the selectmen of a town may make regulations not inconsistent with the provisions of this chapter relative to the use of ballot boxes and seals, counting and other apparatus, the receiving of ballots and the counting and returning of votes.

Registration, etc., to be deemed regular in criminal prosecutions.
1890, 393, § 2.
1893, 417, § 11.
1898, 548, § 10.

SECTION 10. If, in a criminal prosecution for the violation of any law relating to the assessment, qualification or registration of voters, or to voting lists or ballots or matters pertaining thereto, the defendant relies upon the invalidity, informality or irregularity of such assessment, qualification or registration, or of such voting lists or ballots, or matters pertaining thereto, he shall prove such invalidity, irregularity or informality; and until such proof, the presumption shall be that such assessment, qualification or registration, or such voting lists or ballots or matters pertaining thereto, are valid, formal and regular, and in accordance with law; but the validity, regularity or formality of such assessment, qualification or registration of voters, or of such voting lists or ballots, or matters pertaining thereto, may also be proved in any other legal manner.

Caucus, etc., to be deemed regular in criminal prosecutions.
1890, 393, § 1.
1893, 417, § 10.
1898, 548, § 11.

SECTION 11. If, in a criminal prosecution for the violation of any law relating to caucuses or elections or matters pertaining thereto, the defendant relies upon the invalidity, irregularity or informality of any caucus or election, or upon the failure or neglect of any officer or person to do any act in relation to any caucus or election or matters pertaining thereto, he shall prove such invalidity, irregu-

larity, informality, failure or neglect; and until such proof, the presumption shall be that such caucus or election or matters pertaining thereto were valid, regular and formal and that such officer or person acted as prescribed by law. The testimony of the clerk of the city or town, wherein it is alleged that such election was held, or of the presiding officer, secretary or clerk of such caucus, that such election or caucus was actually held, shall be prima facie evidence that the same was regularly and duly held; but the validity, regularity or formality of such caucus or election or matters pertaining thereto may also be proved in any other legal manner.

QUALIFICATIONS OF VOTERS.

Qualifications of male voters. Amend. const., arts. 3, 20, 23, 26, 28, 30, 31, 32. 1811, 9, § 1. 1822, 104, § 1. R. S. 3, § 1. G. S. 6, § 1. 1874, 376, § 1. P. S. 6, § 1; 27, § 52. 1884, 298, §§ 1-3. 1887, 249. 1890, 423, §§ 2, 208. 1892, 351, § 2. 1893, 417, § 13. 1898, 548, § 13. 11 Pick. 538. 5 Met. 162, 298, 591. 7 Gray, 299.

SECTION 12. Every male citizen of twenty-one years of age or upwards, not being a pauper or person under guardianship, who is able to read the constitution of the commonwealth in the English language and to write his name, and who has resided within the commonwealth one year and within the city or town in which he claims a right to vote, six calendar months last preceding a state, city or town election, may have his name entered upon the list of voters in such city or town, and shall have the right to vote therein in any such election or in any meeting held for the transaction of town affairs upon complying with the requirements hereinafter set forth; and, except as above provided, no male person shall have his name entered upon the list of voters or have the right to vote, except that no person who is prevented from reading or writing as aforesaid by a physical disability, or who had the right to vote on the first day of May in the year eighteen hundred and fifty-seven, shall, if otherwise qualified, be deprived of the right to vote by reason of not being able so to read or write; and no person who, having served in the army or navy of the United States in the time of war, has been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town; and further, no person, otherwise qualified to vote for national or state officers shall, by reason of a change of residence within the commonwealth, be disqualified from voting for such officers in the city or town from which he has removed his residence until the expiration of six calendar months from the time of such removal.

—soldier, etc., receiving aid, not disqualified. Amend. const., arts. 28, 31. 1890, 423, § 3. 1892, 351, § 6.

—change of residence. Amend. const., art. 30. 1891, 286, § 1. 1892, 351, § 4.

—of female voters, etc. 1881, 191, § 1. P. S. 6, § 3. 1884, 298, § 4. 1890, 423, § 5. 1892, 351, § 3. 1893, 417, § 14.

SECTION 13. Every female citizen having the qualifications of a male voter required by the preceding section may have her name entered upon the list of voters for school committee, and shall have the right to vote for members of the school committee upon complying with the requirements hereinafter set forth. 1898, 548, § 14.

Place of registration and voting. 1876, 225, §§ 4, 6. P. S. 6, §§ 20, 21. 1884, 298, §§ 29, 31. 1886, 264, § 5. 1890, 423, § 4. 1892, 351, § 4. 1893, 417, § 15.

SECTION 14. A person qualified to vote in a city or town divided into wards or voting precincts shall be registered and be entitled to vote in the ward or voting precinct in which he resided on the first day of May preceding the election, or, if he became an inhabitant of such city or town after such first day of May, in the ward or voting precinct in which he first became a resident.

1898, 548, § 15. [1 Op. A. G. 69.]

ASSESSMENT OF POLL TAXES AND LISTS OF PERSONS ASSESSED.

Lists of persons liable to a poll tax.
1885, 271, § 1.
1886, 68, § 1; 264, § 3.
1889, 196.
1890, 423, § 11.
1892, 351, § 7.
1893, 417, § 16.
1894, 268, § 1.
1898, 548, § 16.
1899, 361, § 1.

SECTION 15. The assessors, assistant assessors, or one or more of them, shall annually, in May or June, visit every building in their respective cities and towns and, after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, age, occupation and residence, on the first day of May in the current year, and the residence on the first day of May in the preceding year, of every male person twenty years of age or upwards, residing in their respective cities and towns, liable to be assessed for a poll tax; and shall inquire at the residences of the women voters whose names are contained in the list transmitted to them by the registrars under the provisions of section forty-four whether such women voters are resident thereat, and shall thereupon make true lists of the women voters found by them.

In Boston the assessors shall, themselves or by the assistant assessors, in making the lists of male persons liable to be assessed for a poll tax and of the women voters proceed as follows: — two assessors or two assistant assessors, not being of the same political party, shall together visit every building and verify each other's work upon the spot, and the names of the male persons liable to be assessed and of the women voters shall be written down at every building upon the spot in the books furnished by the assessors, before the next building is visited.

Correction of lists. Preservation of papers.
1882, 247.
1884, 298, §§ 26, 34.
1889, 404, § 1.
1892, 351, § 7.
1893, 417, § 16.

The assessors shall, upon the personal application of an assessed person for the correction of any error in their original lists, and whenever informed of any such error, make due investigation, and, upon proof thereof, correct the same on their books. They shall cause all applications, certificates and affidavits received by them under this section to be preserved for two years. 1894, 268, § 1.

Assessors to furnish registrars and collectors lists, etc.
1885, 271, § 1.
1886, 68, § 1.
1889, 196.
1890, 423, § 11.
1892, 351, § 8.
1893, 417, § 17.
1894, 268, § 2.
1898, 548, § 17.

SECTION 16. The assessors shall from time to time, and before the fifteenth day of July in each year, transmit to the registrars of voters the lists made as provided in the preceding section, or certified copies thereof, and shall promptly transmit to the registrars and to the collector of taxes notice of every addition to and correction in the lists made by them. Every assessor, assistant assessor and collector of taxes shall furnish all information in his possession necessary to aid the registrars in the performance of their duties.

Street lists of assessed polls.
1884, 298, § 19.
1890, 305; 423, §§ 25, 26.
1891, 277.
1892, 351, § 9.
1893, 417, § 18.
1898, 548, § 18.

SECTION 17. The assessors of cities shall, on or before the fifteenth day of July in each year, and the assessors of towns having over five thousand inhabitants according to the latest census, state or national, shall, on or before the first day of August in each year, prepare street lists containing the names of all persons assessed by them for poll taxes for the current year. Such lists for cities and for towns divided into voting precincts shall be arranged by voting precincts. They shall print such lists in pamphlet form, shall deliver to the registrars as many copies thereof as they may require, and shall hold the remaining copies for public distribution. In all other towns they shall, on or before the first day of August in each year, cause lists of all persons assessed therein for poll taxes to be prepared and conspicuously posted in two or more public places in every such town.

SECTION 18. The assessors shall name or designate in such street lists all buildings used as residences, in their order on the street where they are located, by giving the number or other definite description of each building so that it can be readily identified, and shall place opposite to or under each number or other description of a building the name, age and occupation of every person residing therein on the first day of May of the current year and assessed for a poll tax, and his residence on the first day of May of the preceding year.

Form and contents of street lists. 1884, 298, § 19. 1890, 423, § 25. 1891, 277. 1892, 351, § 10. 1893, 417, § 19. 1898, 548, § 19.

SECTION 19. If a male person resident in a city or town on the first day of May was not assessed for a poll tax, he shall, in order to establish his right to assessment, present to the assessors a statement under oath that he was on said day a resident of such city or town and liable to pay a poll tax therein, and a list under oath of his polls and estate and shall also produce before the assessors two witnesses, who shall testify, under oath, that they are voters of the ward or town in which such person desires to be registered and that the statement of the applicant is true.

A male person who becomes a resident of a city or town after the first day of May and desires to be registered as a voter shall present to the assessors a statement under oath that he has been a resident of such city or town for six months immediately preceding the election at which he claims the right to vote, and shall produce before the assessors two witnesses, who shall testify under oath that they are voters of the ward or town in which such person desires to be registered and that the statement of the applicant is true.

If the assessors are satisfied that such statements are true, they shall, in the first case, assess such applicant for his polls and estate and give him a certificate of assessment, and in the second, give him a certificate that he has been a resident in such city or town the six months preceding such election; but in Boston no person shall be assessed as above provided later than the first day of October.

Assessment of polls and estate after May 1. 1874, 376, § 6. 1877, 207, § 1. P. S. 6, § 8. 1884, 298, § 11. 1888, 200, § 1. 1890, 423, § 14. 1893, 417, §§ 20, 21. 1894, 271, § 4. 1895, 61, §§ 1, 2. 1898, 548, § 20.

SECTION 20. The assessors shall enter the name and residence of each person thus assessed or certified in a book provided for that purpose, and opposite to each name, the names, occupations and residences of the persons who have testified as above provided, and shall cause to be printed in some newspaper published in Boston the name and residence of each person thus assessed or certified, with the names and residences of the two witnesses who have testified for such person. The names and residences of such persons and witnesses shall be printed, as above provided, within two days after the number of names of persons thus assessed or certified, not printed, reaches fifty, and on the day when such number is reached, the names to be printed within such two days shall include the names of all such persons and witnesses up to the close of business in the office of the assessors on such day. The names and residences of the persons thus assessed or certified shall be printed in Roman type, and immediately following each of such names shall be printed in italic type the names and residences of the two witnesses who have testified for such person. The names of such persons and witnesses shall be arranged and printed by wards and precincts.

Records to be kept. 1894, 271, § 4. 1895, 61, § 3. 1898, 548, § 21. 1899, 361, § 2.

Copies of laws to be posted.

In every place where voters are registered, the registrars, and in every place where oaths are administered as required by this chapter, the assessors, shall post in a conspicuous place a copy of sections three hundred and eighty-nine and three hundred and ninety, printed on white paper with black ink, in type not less than one-quarter of an inch wide.

Sessions of assessors.
1894, 271, § 4.
1895, 61, § 4.
1898, 548, § 22.

SECTION 21. The assessors shall hold such day and such evening sessions as shall be necessary to carry out the provisions of the two preceding sections.

Certain assessments subject to general provisions.
1890, 423, § 14.
1892, 351, § 26.
1893, 417, § 22.

SECTION 22. All assessments made in accordance with section nineteen shall be subject to the provisions of section seventy-four of chapter twelve, and shall be entered in the tax list of the collector of taxes and be collected by him according to law. 1898, 548, § 23.

Names of decedents, etc., to be sent to registrars.
1884, 298, § 30.
1886, 264, § 4.
1889, 404, § 5.
1890, 423, § 39.
1892, 351, § 39.
1893, 417, § 23.
1898, 548, § 24.
1900, 241.
1901, 441.

SECTION 23. The city or town clerk or registrar of deaths in each city or town shall, on the first day of every month, and also two days before every election, transmit to the registrars of voters a list of the names of all residents of such city or town of twenty-one years of age or upwards who died in the preceding month or since the date of the list previously transmitted, with a statement of the ward, street and number therein, if any, where such person resided at his death. The prison commissioners of Massachusetts, the penal institutions commissioner of Boston, the pauper institutions trustees of Boston, and the insane hospital trustees of Boston shall, ten days before every state election in Boston, transmit to the election commissioners of Boston the names of all male persons of twenty-one years of age or upwards who had a last known residence in Boston, and also ten days before every city election in that city, the names of all male and female persons of said age or upwards who had such residence and who, at said respective dates, are inmates of the institutions under their charge, respectively, except those whose terms of confinement expire before the date of such election. Such commissioners and trustees shall make diligent inquiry as to the age and residence of inmates of such institutions, and shall, in the case of those coming within the provisions of this section, transmit to the election commissioners the names and ages of such persons and their residences by street and number, wherever it is possible to do so. The election commissioners shall thereupon make a memorandum in red ink opposite the names of such of said persons as appear upon the voting lists, stating the institutions in which such persons are then confined, and copies of the voting lists containing such memoranda shall forthwith be sent by them to the election officers.

REGISTRARS OF VOTERS.

Board of registrars of voters in certain cities, appointment.
1881, 210, § 1.
R. S. 6, § 11.
1884, 298, § 14.
1889, 69, §§ 1, 2.
1890, 423, § 19.
1893, 417, § 24.
1898, 548, § 25.

SECTION 24. In every city which, by vote of the city council, approved by the mayor, accepts the provisions of this section, or which has accepted the corresponding provisions of earlier laws, or which is now subject to similar provisions of law, there shall be a board of registrars of voters consisting of four persons who shall be appointed by the mayor with the approval of the board of aldermen. When a board of registrars is first appointed after the acceptance of the provisions aforesaid, two registrars shall be appointed

in March or April next succeeding such acceptance for terms respectively of three and four years, beginning with the first day of May next ensuing. The city clerk of such city shall cease to be a member of the board of registrars on such first day of May, but the remaining two members of the existing board of registrars of such city whose terms do not then expire shall continue to hold office for their respective terms of one and two years. In every year succeeding such first appointments, the mayor shall, in March or April, subject to the approval of the board of aldermen, appoint one person to be a registrar of voters for the term of four years, beginning with the first day of May next ensuing. The board of registrars so constituted shall annually in May before transacting any other business, elect one of its members as clerk, who shall perform all the duties required by law of a city clerk when acting as clerk of the board of registrars.

Registrars in certain cities and towns, appointment, term of office. 1881, 210, § 1. P. S. 6, § 11. 1884, 298, § 14. 1890, 423, § 18. 1893, 417, § 26. 1898, 548, § 26.

SECTION 25. In every city, except Boston and any other city to which the provisions of the preceding section apply, and in every town having three hundred voters, as provided in the following section, there shall be a board of registrars of voters consisting of the city or town clerk and three other persons who shall, in a city, be appointed by the mayor, with the approval of the aldermen, and, in a town, by a writing signed by the selectmen and filed with the town clerk. When a board of registrars is first appointed, the registrars shall be appointed in March or April for terms respectively of one, two and three years, beginning with the first day of May next ensuing. In March or April in every year succeeding the original appointment, one registrar shall be appointed for the term of three years, beginning with the first day of May next ensuing.

—in small towns. 1884, 298, § 49. 1890, 423, § 59. 1893, 417, § 27. 1898, 548, § 27.

SECTION 26. In every town having less than three hundred voters registered therein for the annual state election, the selectmen and the town clerk shall constitute a board of registrars of voters; but when three hundred voters shall be so registered, a board of registrars shall, in the succeeding year, be appointed, as provided in the preceding section, and shall continue to perform the duties of registration therein until, for three successive years, the number of voters shall be less than three hundred, whereupon, on the first day of May following the annual state election in such third year, such board shall cease to exist and thereafter the selectmen and town clerk shall constitute a board of registrars of voters.

—political representation. 1881, 210, § 1. P. S. 6, § 11. 1884, 298, § 14. 1889, 69, § 3. 1890, 423, § 18. 1891, 395. 1893, 417, §§ 28, 30. 1898, 548, § 28. 171 Mass. 138.

SECTION 27. In the original and in each succeeding appointment and in the filling of vacancies, registrars of voters shall be so appointed that the members of the board shall, as equally as may be, represent the two leading political parties at the preceding state election, and in no case shall an appointment be so made as to cause a board to consist of more than two members who, including the city or town clerk, are of the same political party.

—balance of political parties to be preserved. 1887, 432.

SECTION 28. If, upon written complaint to the mayor or to the selectmen, it shall appear, after notice and hearing, that the city or town clerk, when a member of the board of registrars, and two reg-

1890, 423, § 21.
1893, 417, § 29.
1898, 548, § 29.
171 Mass. 138.

istrars are of the same political party, the mayor or selectmen, as the case may be, shall remove from office the one of such two registrars having the shorter term. If, upon like proceedings, it shall appear, after notice and hearing, that a registrar of voters, other than the city or town clerk, has ceased to act with the political party which he was appointed to represent, the mayor or selectmen, as the case may be, shall remove him from office.

Registrars, temporary vacancies.
1885, 246.
1890, 423, § 20.
1893, 417, § 31.
1898, 548, § 30.

SECTION 29. If a member of the board of registrars shall be disabled by illness or other cause from performing the duties of his office, or shall, at the time of any meeting of said board, be absent from the city or town, the mayor or the selectmen may, upon the request in writing of a majority of the remaining members of the board, appoint in writing some person to fill such temporary vacancy, who shall be of the same political party as the member whose position he is appointed to fill. Such temporary registrar shall perform the duties and be subject to the requirements and penalties provided by law for a registrar of voters.

—oath; powers and duties, compensation, etc.
1881, 210, §§ 2, 3, 6.
P. S. 6, § 12.
1884, 298, § 15.
1890, 423, §§ 18, 22.
1893, 417, § 32.
1898, 548, § 31.

SECTION 30. The registrars and assistant registrars hereinafter provided for shall, before entering upon their official duties, each take and subscribe an oath faithfully to perform the same. They shall receive such compensation for their services as the city council or selectmen may determine; but such compensation shall not be regulated by the number of names registered by them, and a reduction of compensation shall apply only to registrars appointed thereafter. The city council or selectmen shall provide office room for the registrars, and such aid as they may need. The city or town clerk, when a member of a board of registrars, shall act as clerk thereof, shall keep a full and accurate record of its proceedings and shall cause such notices as the registrars may require to be properly served or posted.

—tenure of office.
1884, 298, § 14.
1890, 423, § 19.
1893, 417, § 24.

SECTION 31. Each registrar shall, unless sooner removed, hold his office for the term for which he is appointed and until his successor is appointed and qualified. 1898, 548, § 32.

Assistant registrars in cities.
1893, 417, § 33.
1898, 548, § 33.

SECTION 32. A city council, except in the city of Boston, may authorize the registrars to appoint assistant registrars for the term of one year, beginning with the first day of October, unless sooner removed by the registrars, and they shall, as nearly as may be, equally represent the different political parties.

—sessions, regulations, etc.
1874, 60, §§ 7, 9.
1884, 337, §§ 2, 4.
1893, 417, § 34.
1898, 548, § 34.

SECTION 33. The registrars in a city authorizing the appointment of assistant registrars may cause the duties devolving upon a single registrar to be performed by one or two assistant registrars, and they may designate two assistant registrars, so far as practicable of different political parties, for the sessions required by law to be held outside of their principal office. The registrars shall make suitable regulations for the government of the assistant registrars, whose doings shall be subject to their revision and acceptance. Assistant registrars shall be subject to the same obligations and penalties as registrars. Registrars may remove an assistant registrar, and may fill any vacancy in the number of assistant registrars for the remainder of a term.

SECTION 34. No person shall be appointed a registrar or assistant registrar who is not a voter of the city or town for which he is appointed, who holds an office by election or appointment under the government of the United States or of the commonwealth, except as a justice of the peace, notary public, or an officer of the state militia, or who holds an office in the city or town for which he is appointed either by election or by direct appointment of the mayor or of the selectmen. The acceptance by a registrar or assistant registrar of an office which he is prohibited from holding shall vacate his office as registrar or assistant registrar.

Registrars, etc., not to hold other office.
1889, 337, § 3.
1890, 423, §§ 18, 19.
1893, 417, § 35.
1895, 207.
1898, 548, § 35.

REGISTRATION OF VOTERS.

SECTION 35. Every city and town shall provide the registrars with suitable rooms in which to hold their official sessions.

1884, 298, § 15. 1892, 351, § 14. 1893, 417, § 36. 1898, 548, § 36.

Rooms for registration.
1881, 210, § 6.
P. S. 6, § 12.

SECTION 36. The registrars shall hold such day and such evening sessions as the town by a by-law or the city by an ordinance shall prescribe, and such other sessions as they deem necessary.

They shall hold at least one session at some suitable and convenient place in every city or town on or before the Saturday last preceding the first caucus preceding the annual state election, to give an opportunity to qualified voters to register.

In cities, they shall hold a continuous session from twelve o'clock noon until ten o'clock in the evening on the twentieth day preceding the annual state election, and a like continuous session on the twentieth day preceding the annual city election.

In towns, they shall hold a continuous session from twelve o'clock noon until ten o'clock in the evening on the Saturday last but one preceding the annual state election, and a like continuous session on the Saturday last but one preceding the annual town meeting. In towns divided into voting precincts they shall, not more than twenty days before the annual state election and also not more than twenty days before the annual town meeting, but in each case on or before the last day fixed for registration, hold at least one session at some suitable place within the limits of each voting precinct. In towns not divided into voting precincts, they shall, not more than twenty days before the annual state election and also not more than twenty days before the annual town meeting, but in each case on or before the last day fixed for registration, hold sessions in two or more suitable places. If, in any such town ten or more voters residing in or near a village or locality distant two or more miles from the usual place of registration shall, not less than eighteen days before the annual state election or the annual town meeting, file a petition with the town clerk stating that in such village or locality there are at least ten citizens who are entitled and desire to be registered, the registrars shall hold a session at some suitable place in such village or locality before the last day fixed for registration. The time and place of registration shall be the same for male and female applicants.

Sessions for registration.
1877, 235, § 2.
1878, 233, §§ 1, 2.
P. S. 6, § 25.
1884, 298, § 36.
1890, 423, § 44.
1892, 351, §§ 15–19.
1893, 417, §§ 37–39.
1894, 271, § 1.
1895, 27, § 1.
1897, 210; 530, § 2.
1898, 548, § 37.
[1 Op. A. G. 54.]

SECTION 37. In every city, registration shall cease at ten o'clock in the evening on the twentieth day preceding the annual state elec-

Close of registration.
1874, 376, § 8.

1879, 37.
P. S. 6, §§ 23, 25.
1884, 208, § 37.
1890, 423, § 45.
1892, 351, §§ 15–19.
1893, 417, § 40.
1894, 271, § 2.

tion, and at ten o'clock in the evening on the twentieth day preceding the annual city election. In every town, registration shall cease at ten o'clock in the evening on the Saturday last but one preceding the annual state election, and at ten o'clock in the evening on the Saturday last but one preceding the annual town meeting.

1898, 548, § 38. [1 Op. A.G. 184.]

Registration for special elections.
1893, 209; 417, § 41.
1895, 2.
1898, 548, § 39.

SECTION 38. The registrars shall, in some suitable place, hold a continuous session from twelve o'clock noon until ten o'clock in the evening, on the fourth day, or in Boston on the seventh day, preceding a special election. Registration shall cease at ten o'clock in the evening of the day on which such session is held.

Close of registration before holiday.
1896, 73.
1898, 548, § 40.

SECTION 39. If the final day for registration of voters falls on Sunday or on a holiday, the day preceding such Sunday or holiday shall be the final day for such registration.

Examination of applicants by single registrar.
1890, 423, § 58.
1892, 351, § 20.
1893, 417, § 47.
1898, 548, § 41.

SECTION 40. Any registrar may, at a place appointed for registration, on the days and during the hours designated for the purpose, receive applications for registration and examine applicants and witnesses under oath; but all doings of one registrar shall be subject to the revision and acceptance of the board.

Entry of names on registers after close of registration, etc.
P. S. 6, § 25.
1890, 423, § 45.
1892, 351, § 25.
1893, 417, § 42.
1898, 548, § 42.

SECTION 41. The registrars shall not, after ten o'clock in the evening of a day on which registration is to cease, register any person as a voter until after the next election, but they may enter or correct upon the registers the names of persons whose qualifications as voters have been examined between the preceding thirtieth day of April and the close of registration. They shall, in every case, require the vote by virtue of which such entry or correction is made to be attested by their clerk.

Notices of sessions for registration, etc.
P. S. 6, §§ 23, 25.
1889, 404, § 4.
1890, 423, § 44.
1892, 351, § 14.
1893, 417, § 43.
1898, 548, § 43.
10 Cush. 143.
7 Allen, 155.
140 Mass. 390, 395.

SECTION 42. They shall post or publish notices stating the places and hours for holding all sessions, the final sessions preceding any election, and that after ten o'clock in the evening of the last day fixed for registration they will not, until after the next election, add any name to the registers except the names of voters examined as to their qualifications between the preceding thirtieth day of April and the close of registration.

General register.
1877, 208.
1878, 251, § 2.
P. S. 6, §§ 13, 14, 16.
1884, 208, §§ 17, 18, 22, 38.
1890, 423, §§ 24, 30, 31.
1892, 351, §§ 11, 22, 23.
1893, 417, § 44.
1898, 548, § 44.
140 Mass. 390, 395.

SECTION 43. They shall keep, in general registers, records of all persons, male and female, registered as qualified to vote in the city or town. They shall enter therein the name of every such voter written in full, or instead thereof the surname and first Christian name or that name by which he is generally known, written in full, and the initial of every other name which he may have, and also his age, place of birth and residence on the preceding first day of May or at the time of becoming an inhabitant of the city or town after said day, the date of his registration and his residence at such date, his occupation and the place thereof, the name and location of the court which has issued to him letters of naturalization and the date thereof, if he is a naturalized citizen, and any other particulars necessary fully to identify him.

The general registers shall have uniform headings in substantially the following form, and blank books suitable for the purpose shall be provided by the secretary of the commonwealth, at cost, to registrars applying for them.

When Registered.	Name.	Signature of Applicant.	Residence May 1, or subsequent date.	Age.	Place of Birth.	Occupation.	Place of Occupation.	Minutes of Naturalization, Court Issuing Letters and Date of Naturalization.	Residence at Date of Registration.	Remarks.

Annual register. 1884, 298, §§ 16, 29. 1886, 264, § 3. 1890, 423, §§ 23, 38. 1892, 351, § 12. 1893, 417, § 45. 1894, 268, § 3. 1898, 548, § 45. [1 Op. A. G. 54.]

SECTION 44. The registrars shall, after the first day of May, prepare an annual register containing the names of all qualified voters in such city or town for the current year, beginning with such first day of May. Such names shall be arranged in alphabetical order, and, opposite to the name of each voter, his residence on the preceding first day of May or on any subsequent day when he became an inhabitant of the city or town. The registrars shall enter in the annual register every name contained in the lists of persons assessed for a poll tax for the current year, as transmitted to them by the assessors, giving, as the residence of each person on the first day of May, the place at which he was assessed a poll tax; and likewise the name and residence, as aforesaid, of every woman voter whose name is contained in the list of women voters transmitted to them, as provided in section sixteen: *provided*, that in every case they are able to identify the name so transmitted to them as that of a man or woman whose name was borne on the voting list of such city or town at the last preceding election or town meeting. They shall make all inquiries and investigations necessary to identify such person, and they shall not enter in the annual register the name of a person objected to by any registrar until such person has been duly notified and given an opportunity to be heard by them. They shall forthwith enter in the annual register the name of every person whose qualifications as a voter have been determined by them in the current year and whose name has accordingly been entered in the general register. They shall annually, before the first day of May, transmit to the assessors a list of the women whose names are contained upon the register of voters, with their residences, as they appear on the register of the preceding year.

Inquiries, investigations, etc.

Transmission of list of women voters.

Registration, personal application when. 1884, 298, § 21. 1890, 423, § 29. 1892, 351, § 13.

SECTION 45. Every person, male or female, whose name has not been entered in the annual register in accordance with the preceding section must, in order to be registered as a voter, apply in person for registration and prove that he is qualified to register.

1893, 417, § 46. 1898, 548, § 46. [1 Op. A. G. 54.]

—applicant for, to prove assessment or residence. 1895, 61, § 1.

SECTION 46. Every male applicant for registration shall present a tax bill or notice from the collector of taxes, or a certificate from the assessors showing that he was assessed as a resident of the city or town on the preceding first day of May, or a certificate that

1898, 548, § 47. [1 Op. A. G. 54.]

he became a resident therein at least six months preceding the next election, and the same shall be accepted by the registrars as prima facie evidence of his residence.

Examination, etc., when qualifications have not been determined within four years, etc.
1878, 251, § 3.
P. S. 6, § 15.
1884, 298, § 20.
1889, 404, § 4.
1890, 423, §§ 27, 28.
1892, 351, § 22.
1893, 417, § 48.
1894, 291, § 1.
1898, 548, § 48.
140 Mass. 390, 395.
159 Mass. 413.
[1 Op. A. G. 54.]

SECTION 47. If the qualifications of an applicant have not been determined by the registrars within the four years preceding his application, the registrar shall examine him under oath relative thereto, and shall, unless he is prevented by physical disability, or unless he had the right to vote on the first day of May in the year eighteen hundred and fifty-seven, require him to write his name in the general register and to read in such manner as to show that he is neither prompted nor reciting from memory. Registrars shall be provided by the secretary of the commonwealth with a copy of the constitution of the commonwealth printed on uniform pasteboard slips, each containing five lines of said constitution printed in double small pica type. The registrars shall place said slips in the box provided by the secretary of the commonwealth, which shall be so constructed as to conceal them from view. Each applicant shall be required to draw one of said slips from the box and read aloud the five lines printed thereon, in full view and hearing of the registrars. Each slip shall be returned to the box immediately after the test is finished, and the contents of the box shall be shaken up by a registrar before another drawing is made. No person failing to read the constitution as printed on the slip thus drawn shall be registered as a voter. The registrars shall keep said slips in said box at all times. The secretary of the commonwealth shall upon request provide new slips to replace those worn out or lost.

Constitution to be printed on slips, etc.

Registration of naturalized citizen, etc.
1855, 416.
G. S. 6, § 9.
1874, 376, § 15.
P. S. 6, § 26.
1884, 298, § 38.
1890, 423, § 48.
1892, 351, § 23.
1893, 417, § 50.
1898, 548, § 49.

SECTION 48. If an applicant for registration is a naturalized citizen, the registrars shall require him to produce for inspection his papers of naturalization, and to make oath that he is the identical person named therein, and shall, if satisfied that the applicant has been legally naturalized, make upon his papers a memorandum of the date of such inspection. If papers of naturalization have once been examined and record thereof made in the general register, the registrars need not again require their production.

—of minor.
1884, 298, § 24.
1890, 423, § 32.
1892, 351, § 24.
1893, 417, § 51.
1898, 548, § 50.

SECTION 49. If, upon examination, the registrars are satisfied that an applicant for registration has all the qualifications of a voter, except that of age, and that he will on or before the day of the next election or town meeting, attain full age, they shall place his name upon the registers.

Applicant to be notified of rejection, etc.
1892, 351, § 25.
1893, 417, § 52.
1898, 548, § 51.

SECTION 50. If the registrars decline to register the name of a person examined for registration and reported to them therefor by a registrar, they shall notify him of their refusal, and give him a reasonable opportunity to be heard by them upon his application. They shall upon the rejection of an applicant forthwith inform him of such rejection.

Revision and correction of registers.
1884, 298, § 44.
1890, 423, §§ 33, 54.
1892, 351, § 26.
1893, 417, § 53.

SECTION 51. The registrars shall, from time to time, revise and correct the general register and the current annual register in accordance with any facts which may be presented to them. They shall strike therefrom the name of every deceased person which has been transmitted to them by the city or town clerk or the reg-

istrar of deaths in accordance with section twenty-three; but after the name of a voter has been placed upon the current annual register, they shall not strike it therefrom unless the voter has deceased, nor change the place of residence as given thereon, until they have sent to him a notice of their intention so to do, and given him an opportunity to be heard. 1898, 548, § 52. 140 Mass. 390, 395.

SECTION 52. If a registered voter complains to the registrars or election commissioners, in writing under oath in a city fourteen days at least, or in a town four days at least, before an election or town meeting, that the complainant has reason to believe and does believe that a certain person by him therein named has been illegally or incorrectly registered, and setting forth the reasons for such belief, the registrars or election commissioners shall examine into such complaint, and if satisfied that there is sufficient ground therefor, they shall summon the person complained of to appear before them at a certain place and time before the next election or town meeting to answer to the matters set forth in the complaint, and the substance of the complaint and a copy of this and the following section shall be set forth in the summons. Service of the summons shall be made by an officer qualified to serve civil or criminal process, not more than fourteen days nor less than forty-eight hours before the day named for appearance, by delivering in hand a copy of the summons to the person therein summoned, or by leaving it at the place of alleged illegal or incorrect registration, if the officer finds that such person resides there, or if he was formerly there and has changed his residence, then the summons shall be served by leaving it at the place to which he has moved, if it is within the officer's jurisdiction and can be ascertained by inquiry of the landlord or of his agent at said place of alleged illegal or incorrect registration; but if the officer cannot make personal service, and cannot ascertain the whereabouts of the person complained of, the copy of the summons shall be left at such person's last and usual place of abode known to the officer; and the officer shall return the summons to the registrars or election commissioners before the day named for appearance, with the certificate of his doings indorsed thereon. Illegal or incorrect registration. 1881, 262. P. S. 6, § 22. 1884, 298, § 32. 1890, 423, § 42. 1892, 351, §§ 27, 28. 1893, 417, § 54. 1898, 548, § 53.

SECTION 53. If a person summoned before the registrars of voters to answer to such complaint appears before them, they shall examine him under oath, and shall receive other evidence which may be offered in regard to the matters set forth in the complaint, and if satisfied that he is properly registered as a qualified voter they shall enter in the register a statement of their determination upon the facts required for registration. If the registrars are satisfied that he is not a qualified voter in the city or town, they shall strike his name from the register. If a person duly summoned as aforesaid does not appear as directed in the summons, the complainant shall produce sufficient testimony to make out a prima facie case, and if this is done the name of the person complained of shall be stricken from the register; but if such person appears before the registrars before the election or town meeting next ensuing and shows sufficient cause for his failure earlier to appear, the hearing shall be reopened and the matter decided on its merits, as deter- Examination by registrars. 1881, 262. P. S. 6, § 22. 1884, 298, § 32. 1890, 423, § 42. 1892, 351, § 29. 1893, 417, § 55. 1898, 548, § 54. 140 Mass. 390, 395.

mined from the evidence presented on both sides. The complainant and the person complained of may be represented by counsel, and all witnesses may be cross-examined.

Notice of errors to assessors.
1892, 351, § 26.
1893, 417, § 56.

SECTION 54. The registrars shall promptly transmit to the assessors of the city or town notice of every error which they shall discover in the name or residence of a person assessed therein.

1894, 271, § 5. 1898, 548, § 55.

Open sessions and records.
1884, 298, § 39.
1889, 404, § 4.
1890, 423, §§ 28, 49.
1892, 351, §§ 14, 22.
1893, 417, § 57.

SECTION 55. The registrars shall perform their duties in open session, and not secretly. They shall distinctly announce the name of every applicant for registration before entering his name on the general register. Their records shall at suitable times be open to public inspection. 1898, 548, § 56.

Preservation, documents for two years.
1884, 298, § 34.
1890, 423, § 43.
1892, 351, § 14.
1893, 417, § 58.

SECTION 56. All written complaints and certificates received by the registrars, and all other documents in their custody relative to registration, shall be preserved by them for two years after the respective dates thereof. 1898, 548, § 57.

Maintenance of order, etc.
1884, 298, § 40.
1890, 423, § 50.
1892, 351, § 20.
1893, 417, § 59.
1898, 548, § 58.

SECTION 57. A registrar shall have authority to enforce regularity in all proceedings before him, and to maintain order in and about the place where a session is held, or applications for registration are received, and to keep the access thereto open and unobstructed.

Police officers at meetings.
1884, 298, § 42.
1890, 423, § 52.
1892, 351, § 40.
1893, 417, § 60.
1898, 548, § 59.

SECTION 58. The board of police or officer in charge of the police force of a city or town shall, when requested by the registrars or election commissioners, detail a sufficient number of police officers to attend any meeting held by a registrar in the performance of his duties, and to preserve order and enforce his directions.

Supervisors of registration.
1884, 298, § 50.
1890, 423, § 60.
1892, 351, § 38.
1893, 417, § 61.
1898, 548, § 60.
[1 Op. A. G. 599.]

SECTION 59. The governor, with the advice and consent of the council, shall, on the petition of not less than ten qualified voters of a city or town, appoint for a term of one year, two supervisors of registration for each place of registration therein, one from each of the two leading political parties. They shall attend all sessions or meetings for registration held at the places for which they are appointed, and either of them may attach to any book or papers there used for purposes of registration any statement touching the truth or fairness of the proceedings which he may deem proper, and may add thereto his signature or other marks for the purpose of identification.

VOTING LISTS.

Voting lists, contents, arrangement, etc.
1813, 68, § 1.
1822, 104, § 2.
1833, 102, § 2.
R. S. 3, § 5.
G. S. 6, § 5.
1874, 376, § 7.
1877, 208, § 3.
1878, 233, § 1.
1881, 191, § 3; 210, § 4.
P. S. 6, §§ 18, 19, 20, 27.

SECTION 60. Registrars shall, from the names entered in the annual register of voters, prepare voting lists for use at the several elections to be held therein. In such voting lists, they shall place the names of all voters entered on the annual register, and no others, and opposite to the name of each, his residence on the preceding first day of May or at the time of his becoming an inhabitant of such place after said day, and in Boston the age of each male voter therein. They shall enter the names of women voters in separate columns or lists. In cities, they shall prepare such voting lists by wards, and

if a ward or a town is divided into voting precincts, they shall prepare the same by precincts, in alphabetical order, or by streets, except that in Boston, the voting lists shall be prepared by streets. 1884, 298, §§ 27, 28, 43. 1886, 264, § 2. 1890, 423, §§ 35, 37, 53.

1892, 351, § 30. 1893, 417, § 62. 1895, 449, § 4. 1896, 469, § 1. 1897, 296, § 4. 1898, 548, § 61. 1899, 148. 140 Mass. 390, 395.

SECTION 61. They shall place at the end of the voting lists of each ward, voting precinct or town to be used at a state election, under a proper heading, the names of all persons who, by changes in city or town boundaries, or by removal from the city or town, are not entitled to vote for the whole number of officers to be chosen. Names of certain voters at end. 1890, 423, § 47. 1892, 351, § 31. 1893, 417, § 63. 1898, 548, § 62.

SECTION 62. They shall, at least twenty days before the annual city or town election, and in every place except Boston, at least thirty days before the annual state election, and in Boston, except in the years designated for preparing new general registers, twenty-four days at least before the annual state election, cause copies of the voting lists prepared in accordance with the two preceding sections to be posted in their principal office and in one or more other public places in the city or town, and in each precinct therein. Posting of voting lists. 1813, 68, § 1. 1822, 104, § 2. 1833, 102, § 2. R. S. 3, § 5. G. S. 6, § 5. 1874, 376, § 7. 1878, 233, § 1. P. S. 6, § 18. 1884, 298, § 27. 1886, 264, § 2. 1890, 423, §§ 35, 36.

1892, 351, § 32. 1893, 417, § 64. 1895, 449, § 4. 1896, 469, § 2. 1898, 548, § 63. 140 Mass. 390, 395.

SECTION 63. After the voting lists have been posted, registrars shall, within forty-eight hours after a new name has been added to the annual register, cause it to be added to the lists posted in their principal office. If a city or town shall authorize the registrars to publish the names added to the register, they may, instead of posting them, cause all additional names to be printed in a newspaper published in the city or town, if any, otherwise in a newspaper published in the county in which such city or town is situated. In the years designated for preparing new general registers in Boston, the election commissioners shall as often as once in each week during the period of such general registration cause to be printed in some newspaper published in said city such names, as near as may be, as shall have been placed upon the general registers during the six days last preceding the date of such publication. Posting or publishing additional names. 1892, 351, § 33. 1893, 417, § 65. 1896, 469, § 3. 1898, 548, § 64.

SECTION 64. Registrars shall, on the day of an election, give to a voter whose name has been omitted from the voting list, or in whose name or residence, as placed on the voting list, a clerical error has been made, a certificate of his name and residence, as stated on the annual register, signed by the registrars or a majority of them. On presentation thereof to the presiding election officer of the ward, voting precinct or town in which the voter was registered, he shall be allowed to vote, and his name shall be checked on the certificate, which shall be attached to and considered a part of the voting list and returned and preserved therewith. Certificate in case of omission or error in name. 1877, 208, § 3. P. S. 6, § 27. 1884, 298, § 45. 1890, 423, § 55. 1892, 351, § 34. 1893, 417, § 66. 1898, 548, § 65.

SECTION 65. They shall, before every election and meeting in a city or town at which voting lists may be required to be used, prepare voting lists for each ward, voting precinct or town in which such election or meeting is to be held, containing the names and residences of all persons qualified to vote therein, as the same appear upon the annual register, and they shall seasonably transmit the Duplicate voting lists at polls. 1878, 262. P. S. 6, § 28. 1884, 298, § 46. 1889, 413, § 20. 1890, 386, § 14; 423, §§ 56, 90. 1892, 51, § 1; 351, § 36.

1893, 417, § 67.
1898, 548, § 66.
12 Pick. 485.

same to the election officers in every such precinct, ward or town. Such voting lists shall be in duplicate for all elections and meetings at which duplicate lists are required to be used.

Return of assessed polls, etc., after close of registration.
1890, 223, § 1; 423, § 46.
1892, 351, § 35.
1893, 417, § 68.
1898, 548, § 67.

SECTION 66. They shall forthwith, after the final day for registration before an annual state, city or town election, certify to the secretary of the commonwealth the number of assessed polls, the number of registered male and female voters in the city or town, and in each ward and precinct therein, and the number of persons who by law are entitled to vote for a part only of the whole number of officers to be chosen at a state election in such city or town and in each ward and precinct therein, with the titles of the officers for whom such persons are entitled to vote.

In cities in which the city clerk is not a member of the board of registrars, the registrars shall likewise, after the last day for registration for a city election, certify to the city clerk the number of registered male and female voters in the city, and in each ward and voting precinct therein.

Voting list for caucus.
1893, 417, § 69.
1894, 504, § 32.
1895, 489, § 13.
1898, 548, § 68.

SECTION 67. When a caucus is called the registrars shall, on request of the chairman of the ward or town committee of the party whose caucus is to be held or of the person designated to call the caucus to order, furnish him for use in the caucus a certified copy of the voting list of the town, or of the ward of the city for which the caucus is to be held, as last published, adding thereto the names of voters registered since such publication.

List of voters before redivision of a city into wards.
1888, 437, §§ 3, 5.
1893, 417, § 70.
1898, 548, § 69.

SECTION 68. The registrars in every city, after the annual city election in the year nineteen hundred and four, and in every tenth year thereafter, shall, for the purpose of furnishing to the city council and the board of aldermen the information necessary for a new division of the city into wards and voting precincts, deliver to the city clerk before the tenth day of February then next ensuing a list of all the male voters therein who were registered for such city election, which shall be so arranged as to show the number of such voters residing in each lot or block surrounded by streets within the limits of such city or within any other sub-division thereof, which the city council or board of aldermen may, before the first day of February, designate. The registrars shall likewise in any other year, upon request of the board of aldermen, furnish, for the purpose of dividing the ward into voting precincts, a list of the male voters of any ward in the city, arranged as aforesaid.

REGISTRATION OF VOTERS AND VOTING LISTS IN BOSTON.

Election commissioners of Boston.
1895, 449, §§ 2, 3.
1898, 548, § 70.

SECTION 69. The election department of Boston shall be under the charge of a board of election commissioners consisting of four citizens and voters of Boston who shall be appointed by the mayor without confirmation by the board of aldermen; and chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five, and all other acts relating to departments of Boston or the officers and employees thereof, not inconsistent herewith, shall be applicable to said department and the officers and employees thereof.

SECTION 70. Said board shall be so selected that two members shall always belong to each of the two leading political parties; and one member shall annually be appointed for the term of four years, beginning with the first day of May in the year of his appointment. The mayor shall annually, on or before the first day of May, designate one member as chairman for the year beginning with said day, and may, after notice and hearing, remove any member for cause. The chairman of said board shall receive an annual salary of four thousand dollars, and each of the other commissioners three thousand five hundred dollars, or such other salary as the city council may by ordinance prescribe.

Election commissioners of Boston; term, salary, duties. 1895, 449, § 3. 1898, 548, § 71.

SECTION 71. Said board shall annually, between the first day of May and the first day of October, appoint assistant registrars of voters, not exceeding four for each ward, who shall hold office for the term of one year, beginning with the first day of October, unless sooner removed by the election commissioners, and who shall equally represent the two leading political parties.

—to appoint assistant registrars. 1889, 337, § 2. 1893, 417, § 33. 1898, 548, § 72.

SECTION 72. Said board shall constitute the Boston ballot law commission, and shall in all matters relating to objections and questions arising in the case of nominations of candidates for city offices have the powers and perform the duties prescribed for the ballot law commission of the commonwealth; and when sitting as such, the chief justice of the municipal court of the city of Boston, or in case of his disability the senior justice of said court who is not disabled, shall be a member of said board and shall preside, but shall not vote unless the other commissioners are equally divided; and in every other matter in which the commissioners are equally divided said chief justice shall act with them and shall cast the deciding vote.

—to constitute the Boston ballot law commission. 1895, 449, § 5. 1898, 548, § 73.

SECTION 73. Said board shall, between the fifteenth day of June and the first day of October in the year nineteen hundred and six, and in every tenth year thereafter, make a new general register of the qualified male voters, which shall be prepared in the manner provided by law for preparing general registers. Changes may be made therein on account of illegal registration, and after the year in which it is made, all laws relating to general registers of voters shall be applicable thereto, and the annual registers and voting lists of said city shall be prepared therefrom in the manner provided by law for preparing annual registers and voting lists in cities. Until the first day of September of the years designated for preparing new general registers, voters may be registered at the central registration office; and during September said board shall keep open one or more places for registration in each ward, as it shall deem sufficient, where, with the central registration office, registration shall be made daily from eight o'clock in the forenoon to ten o'clock in the afternoon, except on Sunday. In such years of general registration said board may appoint, so as equally to represent the two leading political parties, such additional assistant registrars as in its judgment may be necessary.

—to make general register of voters. 1895, 449, § 6. 1896, 363, § 1; 527. 1898, 548, § 74.

Election commissioners of Boston; to prepare registration books. 1896, 547, §§ 1, 2. 1897, 296, § 1. 1898, 548, § 75.

SECTION 74. Said board shall prepare books for the registration of the male voters and the general register of voters, and the books so prepared shall constitute the general register of voters in said city. Said books shall be in the following form: —

Street.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.			12.
Date of Application for Registration.	No. of Residence or other Designation, May 1, of the Year of Application.	Name.	Signature.	Length of Residence in City.	Occupation.	Place of Occupation.	Place of Birth.	Court of Naturalization.	Date of Naturalization Papers.	Personal Description.			Present Residence.
										Age.	Height.	Weight.	

Under the several headings, there shall be entered as follows:

One, The day, month and year when the applicant is adjudged a qualified voter.

Two, The name of the applicant and the number on the street, place or other location of his dwelling on that day, or if there is no number, such clear and definite description of the place of said dwelling that it can be readily ascertained; if more than one family reside in said dwelling, the floor on which the applicant resides; and if there is more than one house at the number given by the applicant, in which one of them he resides.

Three, The full surname and the Christian name of the applicant, or the name by which he is generally known, and the initial of every other name which he may have.

Four, The applicant shall write his name on a line with the statements herein set forth.

Five, The number of months or years which the applicant states that he has lived in said city.

Six, A full statement of his occupation.

Seven, The place of his occupation.

Eight, The name of the city or town, county and state, country, kingdom, empire or dominion where he was born.

Nine, The designation of the court where the applicant, if he was an alien, was naturalized.

Ten, The date of such naturalization.

Eleven, The age, approximate height and weight of the applicant.

Twelve, The residence of the applicant at the date of registration.

The names of all voters residing in the same dwelling shall be placed together.

—sessions for registration. 1893, 417, § 37. 1894, 271, § 1. 1898, 548, § 76.

SECTION 75. Said board shall hold such day sessions as the city may by ordinance prescribe, and such additional sessions as they shall deem necessary. They shall, in any event, hold in or near each ward in said city not less than ten evening sessions, each of at least three hours' duration, between the first day of September and the close of registration before the annual state election, and the same number of like sessions between the annual state election and the close of registration before the annual city election. They shall also hold at their principal office a continuous session from

nine o'clock in the morning until ten o'clock in the evening on the twentieth day preceding the annual state election, and a like continuous session on the twentieth day preceding the annual city election.

Examination as to qualifications of applicants. 1896, 547, § 2. 1897, 296, § 2. 1898, 548, § 77.

SECTION 76. An election commissioner or assistant registrar of voters shall, at the times and places fixed for registering voters, examine under oath each applicant for registration as to his qualifications as a voter, and, if satisfied that the applicant is a qualified voter, shall immediately, in the presence of the applicant, enter in the proper columns of said register the information required by section seventy-four, according to the statements of the applicant; and if at any time prior to an election the board shall be of opinion that there is an error in such information, after giving notice to the person by mail, by special delivery, that he may be heard on a certain day named therein, it may on said day re-examine said information and correct such error, if any. No person shall, except as provided in section forty-four, have his name entered upon such register unless he personally appears before said board or one member thereof or an assistant registrar and is found qualified to be registered as a voter; and if the person is a naturalized citizen, he shall produce his naturalization papers or a certified copy of the record thereof for inspection, and make oath that he is the person named therein. But if there is a record in the office of said board made in the year eighteen hundred and ninety-six, or subsequent thereto, that the naturalization papers of the applicant have once been produced and examined, they need not be again produced.

Appearance in person of applicants for registration. 1896, 547, § 3. 1897, 296, § 3.

Voting lists by precincts. 1896, 547, § 4. 1897, 296, § 4. 1898, 548, § 78.

SECTION 77. Said board shall annually after the close of registration and before the annual state election make, by precincts, from the annual register, street lists of the voters to be used as the voting lists at elections. Each list shall contain not less than two hundred names, and names shall be added to or taken therefrom, as persons are found qualified or not qualified to vote. Said lists shall be in the following form:

_____ Street.

	NAME OF VOTER.	Residence, Number, or other Designation, May 1, of the Year of Election.	Length of Residence in City.	PERSONAL DESCRIPTION.		
				Age.	Height.	Weight.

Pamphlet copies of voting lists. 1896, 547, § 6. 1897, 296, § 5. 1898, 548, § 79.

SECTION 78. Said board shall, prior to the annual state election and prior to the annual city election, prepare in pamphlet form, not less than fifty copies of each voting list, omitting therefrom everything except the name and residence of the voters, and shall distribute said copies as they may deem best.

Applicant to write his name. 1895, 425. 1896, 547, § 5.

SECTION 79. Every person upon applying to vote shall, when requested by any election officer, write his name in a book prepared for the purpose unless the voter declares under oath to the

1897, 296, § 6. 1898, 548, § 80.

presiding officer that he had the right to vote on the first day of May in the year eighteen hundred and fifty-seven and cannot write, or that by reason of blindness or other physical disability he is unable to write.

POLITICAL COMMITTEES.

State committee, election, term, etc. 1895, 489, § 3. 1898, 548, § 81. 1901, 402, § 1.

SECTION 80. Each political party shall annually elect a state committee, the members of which shall hold office for one year from the first day of January next following their election and until their successors shall have organized. Said committee shall consist of at least one member from each senatorial district, who shall, except in the Suffolk senatorial districts, be elected at the convention held for the nomination of a candidate for senator to be voted for in said district at the annual state election. The members of said committee for the Suffolk senatorial districts shall be elected in accordance with the provisions of section one hundred and thirty-seven. The members of the state committee shall, in January, meet and organize by the choice of a chairman, a secretary, a treasurer and such other officers as they may decide to elect.

Organization.

The secretary of the state committee shall, within ten days after such organization, file with the secretary of the commonwealth, and send to each city and town committee, a list of the members of the committee and of its officers.

Vacancies.

A vacancy in the office of chairman, secretary or treasurer of the committee or in the membership thereof shall be filled by the committee, and a statement of any such change shall be filed as in the case of the officers first chosen.

City, ward and town committees, election, term, organization. 1894, 504, §§ 2, 3. 1895, 489, §§ 4, 6. 1896, 469, § 10. 1897, 530, § 10. 1898, 548, § 82. 1899, 346, § 1.

SECTION 81. Each political party shall, in every ward and town, annually elect a committee to be called a ward or a town committee, to consist of not less than three persons, who shall hold office for one year from the first day of January next following their election and until their successors shall have organized.

The members of the several ward committees of a political party in a city shall constitute a committee to be called a city committee.

Each town committee shall annually, between the first day of January and the first day of March, and each ward and city committee shall, within thirty days after the beginning of its term of office, meet and organize by the choice of a chairman, a secretary, a treasurer and such other officers as it may decide to elect.

The secretary of each city and town committee shall, within ten days after its organization, file with the secretary of the commonwealth, with the city or town clerk and with the secretary of the state committee of the political party which it represents, a list of the officers and members of the committee.

A vacancy in the office of chairman, secretary or treasurer of a city, ward, or town committee shall be filled by the committee, and a vacancy in the membership of a ward or town committee shall be filled by such committee, and a statement of any such change shall be filed as in the case of the officers first chosen.

Choice of ward committee after change of ward lines. 1895, 507, § 30.

SECTION 82. Upon a re-division of a city into wards, any political party may in the next succeeding calendar year elect its ward committees for such terms, not exceeding the length of the terms

for which the former committees were chosen, as the city committee existing at the time of calling the caucuses may determine, and thereafter shall elect such committees at the times and for the terms prescribed by law. The caucuses for the choice of such ward committees shall be called by the city committee in existence at the time, and shall be subject to such reasonable notice as said city committee shall determine. 1896, 469, § 14. 1898, 548, § 83.

SECTION 83. Committees of any party existing at the time when such party at an annual state election first polls for governor three per cent of the entire vote cast in the commonwealth for that office shall be deemed to be organized under these provisions. Organization of existing committees. 1895, 489, § 6. 1897, 530, § 10. 1898, 548, § 84.

SECTION 84. A state, city or town committee may make rules and regulations, not inconsistent with law, for its proceedings and relative to caucuses called by it, and may fix the number of persons of whom it shall consist. Each city or town committee may make reasonable regulations, not inconsistent with law, to determine membership in the party, and to restrain persons not entitled to vote at caucuses from attendance thereat or taking part therein. But no political committee shall prevent any voter from participating in a caucus of its party for the reason that the voter has supported an independent candidate for political office. Rules and regulations. 1894, 504, §§ 3, 8. 1895, 489, §§ 6, 7. 1897, 530, §§ 10, 11. 1898, 548, § 85. 1899, 329, § 1.

PROVISIONS APPLYING TO ALL CAUCUSES OF POLITICAL PARTIES.

SECTION 85. Except as provided in this chapter, no caucus or meeting shall be entitled to nominate a candidate for public office whose name shall be placed on the official ballot, to elect delegates to a political convention for the nomination of such candidate, to elect delegates to conventions held for the election of delegates to national conventions for the nomination of candidates for president and vice president of the United States, or to choose a political committee. Caucuses; nominations by, regulated. 1893, 417, § 71. 1895, 489, § 10; 507, § 2. 1898, 548, § 86. 1900, 120.

SECTION 86. No nomination of a candidate to be voted for in an electoral district or division containing more than one town or more than one ward of a city, except a nomination for the office of representative in the general court and, in the Suffolk senatorial districts, for the office of senator, and in Boston for the office of alderman, shall be made by a caucus. —nominations not to be made by, except. 1898, 548, § 86. 1899, 355. 1901, 402, § 1.

SECTION 87. All caucuses of political parties, except for special elections, for the choice of delegates to political conventions which nominate candidates to be voted for at the annual state election, and for the nomination of candidates to be voted for at such election, shall be held throughout the commonwealth on a day designated by the state committee of the political party for which said caucuses are held; and all of said delegates shall be elected, and all of said candidates shall be nominated, at one caucus. Such caucuses shall be held at the call of the state committee of the political party whose caucuses are to be held, and the chairman and secretary of the state committee of each political party shall, at least twenty-one days before the date on which the caucuses are to be held, forward —to be held on days designated by state committee. 1894, 504, § 5. 1895, 489, § 8. 1898, 548, § 87. 1899, 346, § 2. 1901, 117.

a copy of the call, with designation of date, to the chairman and secretary of each city and town committee of their party.

Caucuses; no two political parties to hold, on same day.
1894, 504, § 6.
1895, 489, § 9.

SECTION 88. No two political parties shall hold such caucuses on the same day. The party first filing with the secretary of the commonwealth the copy of the call as above provided shall be entitled to precedence on the days named. 1898, 548, § 88.

— for special elections.
1895, 489, § 16.
1898, 548, § 89.

SECTION 89. Caucuses relative to a special election shall be held at such time and place and subject to such reasonable notice as the political committee whose duty it is to provide for holding the same may determine. Calls therefor shall be issued by the chairman and secretary of said political committee.

— calling of.
1894, 504, §§ 4, 10.
1895, 489, § 10.

SECTION 90. Every caucus of a political party shall be called by a written or printed notice. No caucus or meeting of a political party not so called shall be recognized as valid under this title.
1896, 469, § 11. 1898, 548, § 90.

— notices to apply only to members of party whose caucuses are to be held, etc.
1894, 504, § 8.
1895, 489, § 7.
1897, 530, § 11.
1898, 548, § 91.

SECTION 91. Notices for caucuses shall apply to all members of the political party calling them, and to them only. No person having voted in the caucus of one political party shall be entitled to vote or take part in the caucus of another political party within the ensuing twelve months. No voter shall be prevented from voting or participating in any caucus if he takes the following oath which shall be administered to him by the presiding officer of the caucus:

> You do solemnly swear (or affirm) that you are a registered voter in this ward (or town) and have the legal right to vote in this caucus; that you are a member of the political party holding the same, and intend to vote for its candidates at the polls at the election next ensuing; and that you have not taken part or voted in the caucus of any other political party for twelve months last past.

Such voter may be challenged like any other voter. Any person whose right to vote is challenged for any cause recognized by law shall not be permitted to vote until he has taken the foregoing oath; and the clerk or secretary of the caucus shall make a record of the administration of said oath to every person who takes the same, which record shall state whether or not said person voted. Said record shall be returned with the proceedings of said caucus and shall be prima facie evidence in any court that such person took said oath and voted in said caucus.

— voting list to be used.
1893, 417, § 69.
1894, 504, § 32.
1895, 489, § 13.
1898, 548, § 92.

SECTION 92. In balloting, the voting lists furnished under the provisions of section sixty-seven shall be used as check lists and no person shall be entitled to vote or to take part in a caucus whose name does not appear upon said lists.

— plurality vote to elect.
1894, 504, § 33.
1895, 489, § 14.
1898, 548, § 93.
1901, 404.
— vacancies.

SECTION 93. The persons receiving the highest number of votes in a caucus shall be declared elected or nominated. If there is a tie vote for delegates to a convention, or a place unfilled in a delegation, or a vacancy occasioned by inability or neglect of a delegate elected to attend a convention, such vacancies shall be filled only

by vote of the remaining members of the delegation at a meeting called for the purpose. Such meeting shall choose a chairman and secretary, and the secretary shall notify the secretary of the convention of the action taken relative to such vacancy, except that, if only one delegate or two delegates were to be elected, the delegate or the remaining delegate, as the case may be, shall fill such vacancy and notify the secretary of the convention of such action.

Caucuses; tie vote.

If there is a tie vote for members of a ward or town committee, or for caucus officers, the members or caucus officers elected shall fill the vacancy.

—failures to elect.

If a majority of a delegation of a ward or town committee, or of caucus officers is not elected, or there is a tie vote for candidates for an elective office, the caucus shall at once proceed to another ballot unless some one present entitled to vote objects; in which case the caucus shall adjourn to any subsequent day. The hour and place shall, if practicable, be the same as that named in the call.

—certificates of election and nomination to delegates and candidates. 1895, 489, § 15. 1896, 435, § 5. 1898, 548, § 94.

SECTION 94. The presiding officer and secretary or clerk of each caucus shall within three week days after its final adjournment deliver or send to each delegate to a political convention, to each member of a political committee, and to each caucus officer a certificate of his election, and to each candidate for an elective office a notice of his nomination.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES EXCEPT IN BOSTON AND IN CERTAIN CITIES AND TOWNS.

—polling places to be provided by aldermen or selectmen. 1894, 504, § 11. 1895, 489, § 11; 507, § 5. 1898, 548, § 95.

SECTION 95. At least two weeks prior to the date on which caucuses are to be held, the chairman or secretary of the city or town committee shall notify the aldermen or the selectmen respectively of such date, and said aldermen or selectmen shall, at the expense of the city or town, provide polling places for said caucuses, in case of a city, not less than one for each ward; and shall, at least ten days prior to the date of said caucus, give said chairman or secretary notice of the places so provided.

—notices of. 1894, 504, § 7. 1895, 489, § 12; 507, §§ 4, 5. 1898, 548, § 96. 1899, 329, § 2.

SECTION 96. Notices of caucuses, signed by the chairman and secretary, shall be issued by each city and town committee not less than seven days prior to the day on which they are to be held. The notices shall state the place where, and the day and hour when, the several caucuses are to be held. They shall be conspicuously posted in at least five places on the highways or streets, and if practicable, in every post office in the city or town, or shall be published at least twice in one or more local newspapers, if there are any. The hour fixed for calling the caucus to order shall not be later than eight o'clock in the evening. The notice shall designate by name or office the person who shall call such caucus to order, and he shall preside until a chairman is chosen. If he is absent at the time appointed, any member of the ward or town committee present shall call the caucus to order and preside until a chairman is chosen. The first business in order shall be the choice of a chairman, a secretary and such other officers as the meeting may de-

—order of business.

termine. No person shall serve as a caucus officer at any caucus in which he is a candidate for membership in a ward or town committee, for an elective office, or for a nomination to an elective office.

Caucuses; candidates to be chosen by ballot. 1893, 417, § 69. 1894, 504, § 32. 1895, 489, § 13. 1898, 548, § 97.

SECTION 97. A ballot shall be taken for the choice of any candidate, delegate or member of a political committee, to be selected by such caucus, and the polls shall be kept open at least thirty minutes.

—preservation of ballots and voting lists. 1894, 504, § 33. 1898, 548, § 98. 1899, 329, § 3.

SECTION 98. The secretary of each caucus shall preserve for ten days all ballots cast and all voting lists used at the caucus. If during said time ten voters entitled to vote in said caucus shall file with him a written request so to do, he shall preserve said ballots and voting lists for three months, and shall produce the same, if required by any court of justice or convention having jurisdiction or authority over the same.

If within three week days after any caucus a person who has received votes thereat for nomination or election to any office, delegation or political committee shall file a statement in writing with the secretary of said caucus claiming an election or nomination, or declaring an intention to contest the election or nomination of any other person, the secretary shall preserve the ballots for such nomination or office until the claim or contest has been finally determined.

—recount.

The secretary shall immediately give notice in writing to the persons affected, fixing a time within twenty-four hours thereafter and a place at which said ballots will be recounted. The chairman and secretary of the caucus shall, at said time and place, recount said ballots and determine the questions raised. Each candidate affected may be present during such recount, or may be represented by an agent appointed by him in writing. If it shall appear upon a recount that persons were nominated or elected other than those declared to have been nominated or elected, certificates of such change shall be made as in the case of the original certificate.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES IN BOSTON AND CERTAIN CITIES AND TOWNS.

—calling, etc., of, in Boston and certain other cities and towns. 1894, 504, § 12. 1895, 507, § 2. 1896, 109, § 2. 1898, 548, § 99.

SECTION 99. All caucuses of a political party in the city of Boston for the election of caucus officers, of delegates to any political convention, of a political committee, or of candidates for any state or city election, and all such caucuses in any city or town held by a political party which has therein adopted this and the following thirty-two sections, or the corresponding provisions of earlier laws, shall be called and held as hereinafter provided.

—calling of, to vote on adoption of special provisions. 1894, 504, § 36. 1895, 507, § 21. 1898, 548, § 100.

SECTION 100. Any city or town committee shall, at the written request of fifty voters, members of its party, call caucuses of said party to determine by ballot whether the special provisions of this chapter applying to caucuses of political parties in Boston and certain cities and towns shall be adopted by said political party in the city or town. The notice of said caucus shall state the purpose for which it is called, the place, the day and the hour, not earlier than six o'clock and not later than half-past seven o'clock in the even-

ing, of holding said caucus. It shall be issued at least seven days prior to the day named therefor, and shall be published at least twice in one or more local newspapers, if there are any, and shall be posted in at least five public places in each ward or town. The polls shall be kept open at least one hour. If said caucuses shall vote to adopt said provisions, all caucuses of said political party in said city or town shall thereafter be called and conducted accordingly.

Caucuses; revocation of adoption of special provisions. 1894, 504, § 37. 1895, 507, § 25. 1898, 548, § 101.

SECTION 101. A political party in a city or town which has accepted said special provisions may, not less than one year after the date of the caucus wherein such provisions were adopted, revoke such action at a caucus called and held in the manner provided in the preceding section. Upon the adoption of said provisions or upon the revocation of such adoption, the secretary of the city or town committee of such political party shall, within ten days thereafter, file with the secretary of the commonwealth and with the clerk of the city or town and the secretary of the state committee of the political party so voting, a notice thereof.

—certain, to be held on the same day. 1894, 504, § 13. 1895, 507, § 3. 1896, 469, § 12. 1898, 548, § 102. 1899, 346, § 3.

SECTION 102. All such caucuses of a political party for the choice of a political committee in cities, for the choice of candidates for a city or town election, and for the choice of delegates to a convention to nominate candidates for such election, except caucuses relating to a special election, shall be held on the same day in each city and town. The city or town committee shall fix the days for holding all caucuses mentioned in this section, and all calls for the same shall be issued by its chairman and secretary.

No two political parties shall hold their caucuses on the same day. The party first filing a copy of the call for a caucus with the city or town clerk, or in Boston with the election commissioners, shall be entitled to precedence as to the day so fixed.

—time of holding, before city elections in Boston. 1896, 435, § 1. 1898, 548, § 103.

SECTION 103. In Boston no caucus for the choice of candidates or of delegates to a convention to nominate candidates for a city election, except caucuses relating to special elections, shall be called for a date earlier than seven days after the annual state election.

—notices of, to contain certain information. 1894, 504, § 14. 1895, 489, § 12; 507, §§ 4, 5. 1897, 530, § 13. 1898, 548, § 104. 1901, 249, § 1.

SECTION 104. Notices of caucuses in said cities or towns shall state the place where and the day and hour when nomination papers shall be issued; the place where and the earliest day and hour when such nomination papers may be filed, which time shall be not less than twenty-four week-day hours succeeding three o'clock of the day fixed for issuing such papers; the place where and the day and hour prior to which such nomination papers shall be filed; and the day on which the several caucuses will be held, and shall be issued not less than eighteen days prior thereto.

—polling places, etc., to be provided. 1895, 489, § 12; 507, § 5. 1897, 530, § 13. 1898, 548, § 105.

SECTION 105. At least two weeks prior to the day named for a caucus, the chairman or secretary of the city or town committee shall give notice of such date to the aldermen or to the selectmen, or in Boston to the election commissioners, who shall, at least ten days prior to such date, notify the city or town committee of the

places selected for holding the caucuses, and shall, at the expense of the city or town, provide polling places, in a city not less than one for each ward, and furnish them with booths, registering ballot boxes, guard rails and the like, as they are arranged for state elections.

If twenty-five voters of a ward or of a town shall request in writing at least twelve days before any caucus of the political party to which they belong, the aldermen or selectmen shall so arrange the polling place of such ward or town as to allow voting to proceed in two or more lines at the caucus.

Caucuses: seven days notice of. 1894, 504, § 14. 1895, 489, § 12; 507, § 5. 1897, 530, § 13. 1898, 548, § 106.

SECTION 106. At least seven days prior to the day named for a caucus, the city or town committee shall issue a notice that such caucus will be held, stating the place, the day and the hour of holding the same. The hour shall not be earlier than two o'clock in the afternoon nor later than half-past seven o'clock in the evening. Notices relative to the filing of nomination papers or for caucuses shall be published at least twice in one or more local newspapers if there are any.

—blank nomination papers to be provided, etc. 1894, 504, § 22. 1895, 507, § 6. 1898, 548, § 107.

SECTION 107. The city or town shall provide, and the city or town clerk or election commissioners shall seasonably prepare, for each political party, blank nomination papers for use in the different wards of the city or in the town. Such papers shall state the place where, and the day and hour prior to which, signed nomination papers shall be filed. On the back of each, sections one hundred and eight to one hundred and fourteen, inclusive, shall be printed. They shall be delivered to the chairman or secretary of the political committee for whose use they have been prepared, and to no other person.

—nominations to be made by nomination papers. 1894, 504, § 15. 1895, 507, § 7. 1896, 469, § 13. 1898, 171; 548, § 108. 1901, 435.

SECTION 108. Nominations of candidates for elective offices, for delegates to a convention, for caucus officers, and for a ward or town committee to be voted for at a caucus, shall be made by nomination papers, as hereinafter provided. Such nominations shall be made on the blank nomination papers prepared and delivered in accordance with the preceding section; and no nomination paper offered for filing shall be received or shall be valid to which is attached any card, paper or other device containing the name of a candidate, his written acceptance, or the signature of any voter required by this section. Such papers shall be signed in person by at least five voters of the ward or town in which the caucus is to be held, who shall be members of the political party holding the caucus, and who shall add to their signatures the street and number, if any, of their residences. Nomination papers shall not contain a larger number of names of candidates than there are persons to be elected. No nomination paper offered for filing shall be received or be valid unless the written acceptance of every candidate thereby nominated shall be filed therewith. No vacancy caused by the death, withdrawal or ineligibility of any of the above candidates shall be filled in the manner provided by law, unless the person entitled to fill such vacancy files the written acceptance of the candidate who is nominated to fill the vacancy.

—signatures. 163 Mass. 539.

—number of names limited.

—acceptance.

SECTION 109. The nomination paper for an elective office shall give the name of the candidate, the street and number, if any, of his residence, and may, in not more than eight words, state his occupation, the public offices he has held, or any other information whereby his identity may be established, and his qualifications for the office to be filled, or his position on any public measure.

Caucuses; information concerning candidates for elective offices. 1894, 504, § 16. 1895, 507, § 8. 1898, 548, § 109. 1900, 245.

The nomination paper of a candidate for a caucus office or for a ward or town committee shall state the street and number, if any, of his residence.

There may be added to the name of a person proposed as a delegate to a convention, a statement of not more than eight words that he is favorable to, or is pledged to support, or to oppose, any person for an office to be filled, or is favorable to, or opposed to, any public measure, or is uncommitted.

If, under the provisions of this section, any delegate or set of delegates is described on a nomination paper as favorable to, or pledged to support, any person for an office to be filled, such person may, within two week days after the announcement thereof, file with the secretary of the city or town committee a written request to have said statement stricken from the nomination paper, and the secretary shall do the same forthwith, and said nomination paper shall thereupon be void and of no effect.

SECTION 110. All nomination papers shall be sealed up and filed in the office of the secretary of the city or town committee not less than ten week days previous to the day on which the caucus is to be held for which the nominations are made, and the secretary shall indorse upon them the time at which they are received by him. They shall not be opened until the time for their filing has expired, when the secretary, at his office, shall publicly open them and publicly announce the nominations therein made.

—filing and opening of nomination papers. 1895, 504, §§ 17, 18; 507, §§ 9, 10. 1896, 435, § 2. 1898, 548, § 110.

SECTION 111. The secretary of the city or town committee shall immediately give notice to the person filing the nomination paper of any error, irregularity or informality appearing therein, and such person may, within two week days after the time when the nomination papers were opened, correct the same, or said secretary may make such correction.

—correction of errors, etc. 1894, 504, § 18. 1895, 507, § 11. 1898, 548, § 111.

SECTION 112. If, in a city, nomination papers placing persons in nomination for all the offices to be filled at a caucus in any ward are not filed, the secretary of the city committee shall forthwith notify the chairman or secretary of the committee of such ward, who shall forthwith call a meeting of said committee, which may nominate candidates for all offices for which nomination papers have not been filed, and shall immediately file with the secretary of the city committee nomination papers signed by all the members of the committee who agree to the nominations therein made. In case of disagreement two sets of such nomination papers may be filed. If, at the expiration of two week days after the time at which nomination papers were opened, proper nomination papers have not been filed for all the offices to be filled, or upon any vacancy caused by death or otherwise, except a withdrawal, the chairman and secretary of the city committee may file nomination papers for such offices or vacancies.

—nomination by ward committee. 1894, 504, § 19. 1895, 507, § 12. 1898, 548, § 112.

Caucuses; nomination by town committee.
1894, 504, § 19.
1895, 507, § 13.
1898, 548, § 113.

SECTION 113. If, in a town, nomination papers placing persons in nomination for all the offices to be filled at a caucus are not filed, or upon a vacancy by death or otherwise, except a withdrawal, the chairman or secretary of the town committee shall forthwith call a meeting of said committee, which shall have all the powers relative to the nomination of candidates conferred in the preceding section upon a ward committee and the chairman and secretary of a city committee.

—vacancy by withdrawal, how filled.
1894, 504, § 20.
1895, 507, § 14.
1898, 548, § 114.
1901, 249, § 2.

SECTION 114. A person who is nominated by a nomination paper may, within forty-eight week-day hours succeeding five o'clock of the day fixed for opening nomination papers, withdraw his name from nomination by a request in writing signed by him with his own hand and filed with the secretary of the city or town committee. Thereupon, the secretary shall immediately give notice of such withdrawal and of the provisions of this section to the person who filed such nomination paper, and such person may, within twenty-four week-day hours succeeding five o'clock of the last day fixed for making withdrawals, present a new name on a nomination paper signed by himself with his own hand; otherwise the chairman and secretary of the city or town committee may file nomination papers for the vacancy.

—nomination papers to be filed with city or town clerk.
1894, 504, § 21.
1895, 507, § 15.
1898, 548, § 115.

SECTION 115. Not less than seven week days before the day upon which the caucuses are to be held and before five o'clock in the afternoon of the last day, the secretary of each city or town committee shall deliver to the city or town clerk, or in Boston to the election commissioners, the nomination papers filed with him.

—correction of errors in nomination papers.
1895, 435, § 3.
1898, 548, § 116.

SECTION 116. If an error or informality is found in any nomination paper, it shall be forthwith returned to the secretary of the committee by whom it was filed, for correction; and if it is not corrected and again filed before five o'clock in the afternoon of the day following its return to said secretary, it shall be void.

—cities and towns to provide ballots.
1894, 504, §§ 23, 35.
1895, 507, § 16.
1898, 548, § 117.

SECTION 117. The city or town shall provide and the city or town clerk, or in Boston the election commissioners, shall prepare ballots to be used in caucuses, in accordance with the provisions of this chapter, and no other ballots shall be received or counted. No ballots as herein provided shall be printed in any printing establishment owned or managed by the city of Boston.

—number of ballots.

The chairman and secretary of the city or town committee may determine the number of ballots to be provided for each ward or town, not exceeding one for each voter therein. If they fail so to do, the city or town clerk or in Boston the election commissioners, shall determine the number. At least six facsimile copies of the ballot, printed on colored paper, shall be provided for each polling place as specimen ballots.

—ballots, how arranged, etc.
1894, 504, §§ 23, 24, 25.
1895, 507, §§ 16, 18.
1897, 530, § 4.
1898, 548, § 118.

SECTION 118. At the top of each ballot shall be printed the words "The official ballot of (here shall follow the party name)." On the back and outside of each ballot when folded shall be printed the words "Official ballot of the (here shall be inserted the party name)", followed by the number of the ward or the name of the

town for which the ballot is prepared, the date of the caucus and a facsimile of the signature of the secretary of the political committee. Names of candidates for each elective office shall be arranged alphabetically according to their surnames. Caucuses; ballots, how arranged, etc.

Names of candidates for caucus officers, for ward or town committees, and for delegates to conventions shall be arranged in groups in the order in which they are filed.

Against the name of a candidate for a caucus office, for an elective office, or for a ward or town committee shall be printed the street and number, if any, of his residence.

Against the name of a candidate for an elective office or for a political convention shall be printed the statement contained in the nomination paper placing him in nomination.

No names shall be printed on a ballot other than those presented on nomination papers. Immediately following the names of candidates, blank spaces equal to the number of persons to be chosen shall be provided for the insertion of other names.

The number of persons to be voted for for the different offices shall be stated on the ballot.

A star (*) against a name shall indicate that a person is a candidate for re-election. The form of ballots and the arrangement of printed matter thereon shall be in general the same as that of the official state ballots, except as herein otherwise provided.

SECTION 119. A cross [×] marked against a name shall constitute a vote for the person so designated. A cross in the circle at the head of an entire group of candidates for delegates to a convention shall count as a vote for each candidate therein. A voter may vote for one or more candidates in any such group by marking a cross against the name of each such candidate, or he may insert another name and mark a cross against it. If he votes for more candidates than the number to be elected, his vote shall not be counted. —voter may vote for group by single mark. 1894, 504, § 25. 1895, 507, § 18. 1897, 530, § 4. 1898, 548, § 119.

SECTION 120. The city or town clerk, or in Boston the election commissioners, before the opening of the polls on the day of the caucus, shall, at the expense of the city or town, prepare and deliver at the polling place to the warden or, if he is not present, to the clerk or, if both are absent, then to any inspector, ballot boxes, the ballots, specimen ballots, voting lists, suitable blank forms and apparatus for canvassing and counting the ballots and making the returns, a seal of suitable device and a record book for each polling place. The presiding officer at each polling place shall, before the opening of the caucus, conspicuously post in such polling place at least six specimen ballots, which shall be kept so posted until the polls are closed. —delivery of ballots, etc., at polling places. 1894, 504, § 26. 1895, 507, § 19. 1898, 548, § 120. —specimen ballots to be posted, etc.

SECTION 121. Caucuses, except as herein otherwise provided, shall be held in general accordance with the provisions of law for the conduct of elections and the manner of voting thereat. —election laws to apply. 1894, 504, § 34. 1895, 507, § 31. 1898, 548, § 121.

SECTION 122. The order of business shall be as follows: —

First, Any necessary preliminary business.

Second, Balloting until half past eight o'clock in the evening, when the polls shall be closed unless the caucus shall vote to keep —order of business. 1894, 504, § 30. 1895, 507, § 20. 1898, 548, § 122.

them open until a later hour; but every voter waiting in line at the hour for closing the polls shall be allowed to vote.

Third, After the polls have been closed, any other business which is properly before the caucus.

Caucuses; challenge of votes, etc. 1894, 504, § 31. 1895, 507, § 21. 1898, 548, § 123.

SECTION 123. If the right of a person offering to vote is challenged for any legal cause, the presiding officer shall require him, or some one in his behalf, to write his name and residence on the outside of the ballot offered, and before it is received the presiding officer shall add thereto the name of the person challenging and the cause alleged for the challenge; but no caucus officer shall receive any ballot which by law he is required to refuse. No officer or other person shall give any information in regard to a ballot cast by a challenged voter unless required by law so to do.

—counting of ballots, etc. 1894, 504, § 33. 1895, 449, § 7; 507, § 22. 1897, 530, § 23. 1898, 548, § 124. 1899, 190.

SECTION 124. Immediately after the polls have been declared closed, but not before, the ballots shall be counted in full view of the voters. When they have been counted and the result has been ascertained, the presiding officer shall make public announcement thereof in open meeting, and the clerk shall, in open meeting, enter in words at length in the record book, the total number of names checked on the voting list, the total number of ballots cast, the names of all persons voted for, the number of votes for each person, and the title of the delegation or office for which he was a candidate.

—clerk to make copy of record, seal up ballots, etc.

The clerk shall forthwith make a copy of said record, certify and seal the same, and transmit it to the city or town clerk, or in Boston to the election commissioners. He shall then, before the adjournment of the caucus, and in the presence of those who counted the same, seal up all ballots cast, with the voting lists used, and a statement of any challenge which may have been made.

—indorsement and transmission to city or town clerk, etc.

The warden and clerk shall indorse upon such package the name of the political party holding the caucus, its date, its purpose, and, if in a city, for what ward the ballots were cast. The warden shall forthwith transmit, by the officer detailed to attend the caucus, to the city or town clerk, or in Boston to the election commissioners, the ballots cast, the voting lists, the ballot boxes, the ballot box seals, the counting apparatus, the copy of the records, and the record book.

—preservation of ballots, voting lists, etc.

The city or town clerk or election commissioners shall safely keep such sealed packages for ten days. If within said time ten voters entitled to vote in said caucus file with them a written request so to do, they shall preserve said ballots and voting lists for three months and shall produce them if required by any court or convention having jurisdiction or authority over the same.

—voting list to applicants. 1896, 435, § 7. 1898, 548, § 125. 1901, 265.

SECTION 125. The city or town clerk, and in Boston the election commissioners, upon written application, signed by at least ten voters of a ward or town, for a copy of a list as checked, may open the envelope containing the voting list used at any caucus in such ward or town and shall furnish to them a certified copy thereof as checked.

—recount of ballots. 1895, 507, § 23.

SECTION 126. If before five o'clock in the afternoon of the second day next succeeding the day of any caucus, ten or more

voters of any town or ward shall sign, adding thereto their respective residences on the first day of May of that year, and file with the city or town clerk, or in Boston with the election commissioners, a statement under oath that the records and returns made by the caucus officers of such town or ward are erroneous, specifying the error, or that challenged votes were cast by persons not entitled to vote therein, said city or town clerk shall forthwith transmit such statement to the registrars of voters with the sealed packages containing the ballots and voting lists, and said registrars or election commissioners shall give notice in writing to the person affected, fixing a place and time, as early as may be, at which said ballots will be recounted and at such place and time shall open the packages containing the ballots and voting lists and recount said ballots and determine the questions raised, and shall reject any challenged vote cast by a person found not to have been entitled to vote; and such recount shall stand as the true result of the vote cast in such caucus. Each candidate affected may be present during such recount, or may be represented by an agent appointed by him in writing. If it shall appear upon a recount that persons were nominated or elected other than those declared to have been nominated or elected, certificates of such change shall be made as in the case of the original certificate.

1896, 435, § 4. 1897, 530, § 12. 1898, 548, § 126. 1899, 329, § 4. 169 Mass. 534.

SECTION 127. At the caucus held for the choice of delegates to the state convention there shall be chosen annually a warden, a clerk, and at least five inspectors, and, in wards having more than five precincts, such additional inspectors as the city committee of the political party whose caucuses are to be held may determine. They shall be voters of the ward or town in which they are elected and members of the political party whose caucus is to be held. No person shall be eligible to the position of warden or clerk or inspector who is a state, county or city employee, or who is a member of a ward or town committee, and no person shall serve as a caucus officer at any caucus wherein he is a candidate for a nomination to an elective office, or for ward or town committee. Every caucus officer shall hold office for one year, beginning with the first day of October succeeding his election, and until his successor is elected. He shall, before entering upon the performance of his duties, be sworn to the faithful performance thereof by the warden, clerk, or a justice of the peace, and a record of such oath shall be made upon the record book of such caucus. The respective duties of caucus officers shall be in general the same as are required of election officers at elections.

Caucuses; officers, term, oath, duties, etc. 1894, 504, §§ 27–29. 1895, 507, §§ 26–28. 1896, 435, § 6. 1897, 530, § 24. 1898, 548, § 127.

SECTION 128. If prior to the third day preceding a caucus of a political party in the city of Boston fifty voters entitled to participate therein petition the board of election commissioners for additional caucus officers, said board shall provide additional officers for said caucus in the following manner: every elective candidate and every person filing a nomination paper for a delegation may present to said board the names of not exceeding four persons. From these names said board shall, in the presence of those presenting said names, draw the names of five persons who shall be admitted behind the guard rail during the caucus, shall be au-

—additional officers in Boston. 1894, 504, § 9. 1895, 489, § 14. 1897, 530, § 5. 1898, 548, § 128.

thorized to supervise the checking of names and the conduct of the caucus in general, and may witness the count at the close of the caucus.

Caucuses; temporary officers.
1894, 504, § 28.
1895, 507, § 28.
1897, 530, § 24.
1898, 548, § 129.

SECTION 129. A majority of the caucus officers present at a caucus, may fill temporary vacancies and elect additional officers to serve in that caucus only. Such temporary officers shall be duly sworn. Permanent vacancies shall be filled by a majority vote of all the caucus officers.

—appointment of officers for first caucus.
1895, 507, § 29.
1898, 548, § 130.

SECTION 130. A city or town committee of a political party adopting the special provisions of this chapter applying to caucuses in Boston and certain cities and towns shall, at least ten days before holding any caucus thereunder, appoint caucus officers in each ward or town to serve at the first caucus to be held thereafter.

—officers for first caucus, in a newly incorporated city or a re-division into wards.
1895, 507, § 30.
1896, 469, § 14.
1898, 548, § 131.

SECTION 131. In a newly incorporated city, or upon a re-division into wards of a city to which the provisions of said sections apply, the caucus officers to serve in the caucuses held in the next succeeding year shall be appointed by the city committee; and at such caucuses the regular caucus officers shall be chosen.

PROVISIONS APPLYING TO CAUCUSES OTHER THAN THOSE OF POLITICAL PARTIES.

—for nomination of candidates, selection of delegates, etc.
1888, 441, §§ 1, 7.
1889, 413, §§ 3, 4.
1890, 386, § 4; 436, § 6.
1893, 417, § 71.
1898, 548, § 132.
159 Mass. 488.
[1 Op. A. G. 88.]

SECTION 132. A caucus of the voters, or of a specified portion thereof in a ward of a city, or in a town, may be called and held for the nomination of candidates to be voted for at any city election, or at any election of town officers for which official ballots are used, or for the selection of delegates to a convention, or for the appointment of a committee. A like caucus in any representative district may be held for the nomination of a candidate for representative in the general court; but otherwise no nomination of a candidate to be voted for in an electoral district or division containing more than one town or more than one ward of a city shall be made by a caucus. The proceedings of such caucuses shall be invalid unless at least twenty-five voters participate and vote therein. Except as provided in this section, no caucus or meeting other than those of political parties shall be entitled to nominate a candidate whose name shall be placed on the official ballot, or to select delegates to a political convention for the nomination of a candidate whose name shall be placed on such ballot.

—notice for, etc.
1888, 441, § 2.
1893, 417, § 72.
1894, 504, § 7.
1896, 469, § 4.
1898, 548, § 133.
1899, 320, § 5.

SECTION 133. The notice for a caucus under the preceding section shall be written or printed, shall state the place where, and the day and hour when, said caucus is to be held, shall be issued at least seven days prior thereto, and shall be conspicuously posted in at least five places on lines of public travel, and, if practicable, in every post office within the city or town, or shall be published at least twice in one or more local newspapers. Said notice shall be signed by one or more voters of the ward, town or district for which the caucus is called, and shall designate by name or office the person who shall call such caucus to order, and he shall pre-

side until a chairman is chosen. In his absence, the caucus may choose a temporary chairman. The first business in order shall be the organization of the caucus by the choice of a chairman, a secretary, and such other officers as the meeting may require. The persons receiving the highest number of votes shall be declared elected or nominated. The caucus may adopt regulations not inconsistent with this chapter. Caucuses: organization.

SECTION 134. Upon the written request of ten or more voters present at a caucus and entitled to vote therein, presented by motion or otherwise to the presiding officer for the time being, at any time before the choice of the officer to which it relates, any candidate, delegate or member of a political committee, and unless the caucus votes otherwise, the chairman of the caucus, shall be elected by ballot. In balloting, the voting lists furnished under section sixty-seven shall be used as check lists. —candidates to be chosen by ballot upon written request, etc. 1888, 441, § 3. 1893, 417, § 73. 1898, 548, § 134.

SECTION 135. The secretary of a caucus held under the provisions of the three preceding sections shall, at the request in writing of ten voters entitled to vote in the caucus, preserve all ballots cast and voting lists used therein for three months, and shall produce the same if required by any court, board, convention or other tribunal having jurisdiction thereof. —preservation of ballots and voting lists. 1888, 441, § 6. 1893, 417, § 74. 1898, 548, § 135.

NOMINATION OF CANDIDATES.

SECTION 136. A convention of delegates or a caucus held in accordance with the provisions of this chapter for the commonwealth, or for a district, county, city, town or ward may make one nomination for each office to be filled at an election therein, and shall be entitled to have the names of its candidates placed upon the official ballot upon filing a certificate of nomination as hereinafter provided. A party may make a nomination for an office to be filled by election in the commonwealth, or in any district, county, city, town or ward, when at the five preceding annual elections it polled in the commonwealth, or in such district, county, city, town or ward, respectively, a number of votes for governor equal to the votes required to nominate by nomination papers a candidate for the office so to be filled. Nomination of candidates by caucus or convention. 1888, 436, §§ 2, 3. 1889, 413, § 3. 1890, 436, § 6. 1893, 417, § 75. 1895, 323. 1898, 548, § 136. [1 Op. A. G. 388.]

SECTION 137. Nomination papers of candidates for senator or member of the state committee for each of the Suffolk senatorial districts, to be nominated or elected by a political party, shall be signed by at least five registered voters of each ward and of each town in the district in which nomination papers are required who shall be members of the political party holding the caucus. Such candidate for senator shall be nominated and such member shall be elected by direct plurality vote in caucuses of the party held in every such ward and town, and the person who in the aggregate of all the ballots cast at all such caucuses in each district for such candidate for senator shall receive the highest number of such votes shall be the candidate nominated, and the person who in the aggregate of all the ballots cast at all such caucuses in each district for such member shall receive the highest number of such votes shall —of senators and election of state committees in Suffolk senatorial districts. 1901, 402, § 1.

be the member elected. The nomination paper of a candidate for member of a state committee shall state the street and number, if any, of his residence, and against the name of such candidate shall be printed on the ballot the street and number, if any, of his residence.

Suffolk senatorial districts; returning, canvassing and notifying nominations and elections. 1901, 402, § 2.

SECTION 138. All such ballots, except those cast in the city of Chelsea, in the towns of Revere and Winthrop and in ward three in the city of Cambridge, and returns of the results of such ballots cast in all said districts, except as aforesaid, shall forthwith be returned to the election commissioners of the city of Boston, as ballots cast in elections in said city and returns relative thereto are returned; and the clerks of the several caucuses in the city of Chelsea, in the towns of Revere and Winthrop and in ward three in the city of Cambridge shall make returns of the results of such ballots cast in said city, towns and ward, to the city and town clerks of their respective cities and towns on or before twelve o'clock, noon, of the day following the last day fixed by law for filing a petition for a recount of ballots, if no such petition has been filed, or, if such petition has been filed, on or before twelve o'clock, noon, of the day following the day upon which the ballots have been recounted and the results finally determined. For the purpose of tabulating and determining the results of all such ballots and returns in the several Suffolk districts the chairman of the election commissioners of the city of Boston, the city clerk of the city of Chelsea, and the town clerks of the towns of Revere and Winthrop, shall constitute a canvassing board for the first district; the election commissioners of the city of Boston and the city clerk of the city of Cambridge shall constitute such board for the second district; and the election commissioners of the city of Boston shall constitute such board for the remaining districts. Said canvassing boards shall meet for such purpose at the office of the election commissioners in Boston at ten o'clock in the forenoon of the Monday preceding the day on which certificates of nomination for senator are required by law to be filed with the secretary of the commonwealth. Said canvassing boards shall tabulate and determine the results of all such ballots and returns, and each canvassing board shall certify to the facts required by law in certificates of nomination for senator, and shall file such certificates with the secretary of the commonwealth on or before the Thursday provided by law for filing such certificates of nomination, shall furnish to the members elected as aforesaid certificates of their election, and shall send to the secretary of the state committee of each political party holding such caucuses the names and residences of such members. The secretary of the commonwealth shall place on the official ballots to be used at state elections the names of all candidates for senator nominated as aforesaid.

— general provisions applicable. 1901, 402, § 3.

SECTION 139. All provisions of law relative to the preparation of nomination papers and ballots, to caucuses and elections, to ballots cast at caucuses and elections, to recounts of such ballots, and to certificates of nomination of candidates for senator, shall, so far as they are applicable and not inconsistent with the provisions of the two preceding sections, apply to the caucuses therein named,

the ballots cast thereat, the returns relative to such ballots, the recounts of such ballots, and the certificates of nomination made as aforesaid.

SECTION 140. No convention to nominate candidates for any state or city office shall be called for or held on a date earlier than four days after the holding of the caucuses for the choice of delegates thereto, and all such conventions shall be called for and held on a date not later than forty-eight hours prior to the hour for filing certificates of nomination as provided in section one hundred and forty-eight.

Conventions; date of, limited. 1896, 435, § 1. 1898, 548, §§ 87, 137. 1899, 146; 346, § 2. 1901, 117.

No representative convention shall be called for or held on a date earlier than seven days after the date designated for holding caucuses by the state committee of the political party whose representative convention is to be held.

SECTION 141. At a political convention not held for the nomination of candidates for any offices to be filled by all the voters of the commonwealth, by vote of one fourth of the delegates present the nomination of any candidate shall be made by roll call in the following manner: the secretary of the convention shall call the roll of the towns and cities in alphabetical order or of wards in a city in numerical order, and each delegate shall, as his name is called, state in the hearing of the convention the name of the candidate for whom he desires to vote, and the person receiving a majority of votes on such roll call shall be the candidate of the convention.

— nomination of candidates by roll call. 1897, 530, § 25. 1898, 191; 548, § 138.

SECTION 142. Every certificate of nomination shall state such facts as are required by section one hundred and forty-six and shall be signed by the presiding officer and by the secretary of the convention or caucus, who shall add to their signatures their residences, and shall make oath to the truth thereof. The secretary of the convention or caucus shall within the seventy-two hours succeeding five o'clock in the afternoon of the day upon which the convention or caucus was held and within the time specified in section one hundred and forty-eight, file such certificate as hereinafter provided.

Certificate of nomination; contents, signature and oath of officers. 1889, 413, § 3. 1890, 386, § 5. 1893, 417, § 76. 1898, 548, § 139.

SECTION 143. Nominations of candidates for any offices to be filled by all the voters of the commonwealth may be made by nomination papers, stating the facts required by section one hundred and forty-six and signed in the aggregate by not less than one thousand voters for each candidate. Nominations of all other candidates for offices to be filled at a state election, and of all candidates for offices to be filled at a city election, may be made by like nomination papers, signed in the aggregate, for each candidate, by one voter for every one hundred votes cast for governor at the preceding annual state election in the electoral district or division for which the officers are to be elected, but in no case by less than fifty qualified voters. Nomination of candidates for offices to be filled at a town election may be made by nomination papers, signed by at least one voter for every fifty votes polled for governor at the preceding annual state election in such town, but in no case by less than twenty voters. At a first election to be held in a newly

Nomination papers, number of signatures. 1888, 436, § 4. 1889, 413, § 4. 1890, 386, § 4. 1893, 417, § 77. 1898, 548, § 140. 159 Mass. 488.

established ward of a city, the number of voters upon a nomination paper of a candidate who is to be voted for only in such ward need not exceed fifty; and at a first election in a town the number for the nomination of a candidate who is to be voted for only in such town need not exceed twenty.

Nomination papers; signature of voter, etc.
1889, 413, § 4.
1890, 386, § 4; 436, §§ 1, 10.
1893, 417, § 78.
1895, 262, § 1.
1896, 469, § 5.
1898, 548, § 141.
163 Mass. 539.

SECTION 144. Every voter who signs a nomination paper shall sign it in person, with his full surname, his Christian name and the initial of every other name which he may have, and shall add his residence, with the street and number thereof, if any, to his signature; but any voter who is prevented by a physical disability from writing or who had the right to vote on the first day of May in the year eighteen hundred and fifty-seven, may authorize some person to write his name and residence in his presence; and every voter may sign as many nomination papers for each office to be filled as there are persons to be elected thereto, and no more. Women who are qualified to vote may sign nomination papers for candidates for the school committee. Every nomination paper shall, before being filed, be seasonably submitted to the registrars of the city or town in which the signers appear to be voters, and in Boston to the election commissioners, who shall forthwith certify thereon the number of signatures which are names of voters both in the city or town and in the district or division for which the nomination is made. They need not certify a greater number of names than are required to make a nomination, with one fifth of such number added thereto. Names not certified in the first instance shall not thereafter be certified on the same nomination papers. The secretary of the commonwealth shall not be required in any case to file nomination papers for a candidate after filing such papers containing a sufficient number of certified names to make a nomination, with one fifth of such number added thereto. One of the signers to each nomination paper shall make oath to the truth of the statements therein, and the certification of such oath and the post office address of the signer shall be annexed to such paper.

—magistrate to ascertain identity of persons making oath to.
1895, 237, § 1.

SECTION 145. A notary public, justice of the peace or other magistrate, when taking the oath of a signer of a nomination paper, shall satisfy himself that the person to whom the oath is administered is the person signing such nomination paper, and shall so state in his attestation of said oath. 1898, 548, § 142.

Contents of certificates and papers.
1888, 436, § 5.
1889, 413, § 5.
1890, 386, § 5; 436, § 2.
1891, 269.
1893, 417, § 79.
1896, 469, § 6.
1898, 548, § 143.

SECTION 146. All certificates of nomination and nomination papers shall, in addition to the names of candidates, specify as to each: (1) his residence with street and number thereof, if any; (2) the office for which he is nominated; and (3), except as hereinafter provided, the party or political principle which he represents, expressed in not more than three words. Certificates of nomination shall also state what provision, if any, was made by the caucus or convention for filling vacancies caused by the death, withdrawal or ineligibility of candidates. The names of the candidates for president and vice president of the United States may be added to the party or political designation of the candidates for presidential electors. To the name of each candidate for the office

of alderman at large shall be added the number of the ward in which he resides.

If a candidate is nominated otherwise than by a political party, the name of a political party shall not be used in his political designation, except as describing and preceding some other name or term which shall not be the name of any party which cast at the last preceding election more than three thousand votes for governor; and if so used in case of a candidate nominated by a nomination paper, the political designation shall consist of not more than two words, shall not be changed after having been placed upon the paper, and to it shall be added the words "nomination paper," or, as abbreviated, "nom. paper." Certificates of nomination and nomination papers for town offices may or may not include a designation of the party or principle which the candidate represents.

Political designation of candidates in certain cases.

SECTION 147. Certificates of nomination and nomination papers for state offices shall be filed with the secretary of the commonwealth; and for city and town offices, with the city or town clerk; and in Boston, with the election commissioners. Every nomination paper shall be filed by a responsible person, who shall with his own hand sign such paper and add to his signature his place of residence, giving street and number, if any; and the secretary of the commonwealth or the city or town clerk, or, in Boston, the election commissioners, shall require a satisfactory identification of such person. No nomination paper shall be received or be valid unless the written acceptance of the candidate thereby nominated shall be filed therewith.

Where and by whom certificates and nomination papers, etc., are to be filed, etc.
1888, 436, § 6.
1889, 413, § 6.
1890, 386, § 6; 436, § 3.
1891, 305.
1893, 349; 417, §§ 81, 83.
1895, 262, § 2.
1898, 548, § 144.

SECTION 148. Certificates of nomination for offices to be filled by all the voters of the commonwealth shall be filed on or before the fifth Monday, and nomination papers on or before the fourth Monday, preceding the day of the election. Certificates of nomination for all other candidates for offices to be filled at a state election shall be filed on or before the third Thursday, and nomination papers, on or before the third Friday, preceding the day of the election; but if there is a special election to fill any state office, certificates of nomination shall be filed on or before the twelfth day, and nomination papers, on or before the eleventh day, preceding the day of such election.

Final days for filing certificates of nomination and nomination papers.
1889, 413, § 6.
1890, 436, § 3.
1891, 305.
1893, 417, § 82.
1895, 244.
1898, 548, § 145.
— special elections.
1893, 351.

In cities, except Boston, certificates of nomination for city offices shall be filed on or before the third Monday, and nomination papers, on or before the second Wednesday, preceding the day of the election.

— in cities, except Boston.
1901, 124.

In Boston, certificates of nomination for city offices shall be filed on or before the third Friday, and nomination papers, on or before the third Saturday, preceding the day of the election.

— in Boston.

In towns, certificates of nomination for town offices shall be filed on or before the second Saturday, and nomination papers, on or before the Monday, preceding the day of the election; but if such Saturday falls on a legal holiday, said certificates of nomination shall be filed on or before the preceding day, and if such Monday falls on a legal holiday, said nomination papers shall be filed on or before the succeeding day; but if a town election is held on a day of the week other than Monday, such certificates of nomination and nomination papers shall be filed respectively on or before the ninth and seventh days preceding the day of the election.

— in towns.
1890, 386, § 6.
1897, 91.

Last hour for filing.
1889, 413, § 6.
1891, 74, § 2.
1893, 417, § 83.

Certificates of nomination and nomination papers shall be filed before five o'clock in the afternoon of the last day fixed for the filing thereof.

Nominations to be deemed valid unless objected to, etc.
1888, 436, § 7.
1889, 413, § 7.
1890, 386, § 6; 436, § 9.
1893, 417, § 85.
1898, 548, § 146.

SECTION 149. When certificates of nomination and nomination papers have been filed, and are in apparent conformity with law, they shall be valid unless objections thereto are made in writing. Such objections to nominations of candidates for state offices and city offices shall be filed with the secretary of the commonwealth or the city clerk, or in Boston, the election commissioners, respectively, within the seventy-two hours succeeding five o'clock of the last day fixed for the filing of nomination papers for such office. Such objections to nominations of candidates for town offices shall be filed with the town clerk within the twenty-four hours succeeding five o'clock of the last day fixed for the filing of nomination papers for such office.

Consideration of objections.
1889, 413, § 7.
1890, 386, § 6; 436, § 5.
1891, 270.
1892, 406, § 1.
1893, 417, §§ 86, 93, 94.
1894, 543.
1896, 383, §§ 3, 4.
1898, 548, § 147.
1900, 231, § 1.

SECTION 150. Objections to certificates of nomination and nomination papers for state offices, and all other questions relating thereto, shall be considered by the state ballot law commission; to nominations for city offices, except in Boston, by the board of registrars, the city clerk and the city solicitor; in Boston, by the ballot law commission of said city; and to nominations for town offices, by the board of registrars.

The boards constituted in cities and towns may, at hearings on such objections and questions, summon witnesses, administer oaths and require the production of books and papers. Such witnesses shall be summoned in the same manner, be paid the same fees, and be subject to the same penalties for default, as witnesses before the superior court. A summons may be signed, and an oath may be administered by any member of such board, and the decision of a majority of the members thereof shall be final.

Notice to candidates and committee of filing of objection.

When such objection has been filed, notice thereof shall be forthwith mailed by the secretary of the commonwealth, or by the city or town clerk, or election commissioners, respectively, to the candidates affected thereby, addressed to their residences as given in the certificates of nomination or nomination papers, and to any party committee interested in the nomination to which objection is made.

Determination of claims to same designation.
1891, 270.

If more candidates bearing the same political or other designation are nominated for an office, otherwise than by nomination papers, than are to be elected thereto, such boards shall determine the candidates, if any, entitled to such designation.

Withdrawal of names of candidates.
1888, 436, § 8.
1889, 413, § 8.
1890, 436, § 9.
1891, 155.
1893, 417, § 84.
1898, 548, § 148.

SECTION 151. A person nominated as a candidate for any state or city office may withdraw his name from nomination by a request in writing signed by him and acknowledged before a justice of the peace and filed with the officer with whom the nomination was filed, within the seventy-two hours succeeding five o'clock of the last day fixed for the filing of nomination papers for such office. A person nominated for a town office may withdraw his name from nomination by a like request filed with the town clerk within the twenty-four hours succeeding five o'clock of the last day fixed for the filing of nomination papers for such office.

SECTION 152. If a candidate nominated for a state, city or town office dies before the day of election, withdraws his name from nomination, or is found ineligible, the vacancy may be filled by the same political party or persons who made the original nomination, and in the same manner; or, if the time is insufficient therefor, the vacancy may be filled, if the nomination was made by a convention or caucus, in such manner as the convention or caucus may have prescribed, or, if no such provision has been made, by a regularly elected general or executive committee representing the political party or persons who held such convention or caucus. If a vacancy is caused by withdrawal, certificates of nomination made otherwise than in the original manner shall be filed within seventy-two hours succeeding five o'clock of the last day fixed for filing withdrawals. They shall be open to objection in the same manner, as far as practicable, as other certificates of nomination. No vacancy caused by withdrawal shall be filled before the withdrawal has been filed.

Nomination to fill vacancies caused by death or withdrawal.
1890, 436, § 4.
1891, 278.
1893, 417, § 87.
1895, 253, § 2.
1896, 469, § 7.
1898, 548, § 149.

SECTION 153. When a nomination is made to fill a vacancy caused by the death, withdrawal or ineligibility of a candidate, the certificate of nomination shall, in addition to the other facts required, state the name of the original nominee, the fact of his death, withdrawal or ineligibility, and the proceedings had for filling the vacancy; and the presiding officer and secretary of the convention or caucus, or the chairman and secretary of an authorized committee, shall sign and make oath to the truth of the certificate, and it shall be accompanied by the written acceptance of the candidate nominated.

Certificate of nomination for vacancy.
1890, 436, § 4.
1891, 278.
1893, 417, § 80.
1895, 253, § 1.
1898, 548, § 150.

SECTION 154. Certificates of nomination, nomination papers, objections thereto and withdrawals, when filed, shall, under proper regulations, be open to public inspection, and the secretary of the commonwealth and the several city and town clerks, and in Boston the election commissioners, shall preserve the same in their respective offices for one year. 1893, 417, § 88. 1898, 548, § 151.

Certificates of nomination open to public inspection; preservation, etc.
1888, 436, § 9.
1889, 413, § 9.
1890, 386, § 6; 436, § 8.

SECTION 155. The secretary of the commonwealth shall, upon application, provide blank forms for the nomination of candidates for all state offices; and he shall send blank forms for certificates of nomination for the office of representative in the general court to the clerk of each city and town for the use of any caucus or convention held therein for the nomination of candidates for that office. He shall likewise provide the clerks of towns wherein official ballots are used with blank forms for the nomination of candidates for town offices.

Forms for nominations to be provided.
1891, 329, § 2.
1893, 417, § 90.
1898, 548, § 152.

STATE BALLOT LAW COMMISSION.

SECTION 156. There shall be a state ballot law commission consisting of three persons, one of whom shall annually in June or July be appointed by the governor with the advice and consent of the council, for a term of three years from the succeeding first day of August. The governor with the advice and consent of the council may remove any member of the commission, or fill any vacancy therein for the remainder of the unexpired term. There shall

State ballot law commission.
1889, 413, § 7.
1890, 386, § 6; 436, § 5.
1892, 406, § 1.
1893, 417, § 92.
1896, 383, § 1.
1898, 548, § 153.
[1 Op. A. G. 559.]

always be on said commission a member of each of the two leading political parties.

State ballot law commission; qualifications of members. 1896, 383, § 2. 1898, 548, § 154.

SECTION 157. No member of said commission shall hold any public office except that of justice of the peace or notary public, or be a candidate for public office, or member or employee of any political committee. If any member of the commission shall be nominated as a candidate for public office and shall not in writing decline said nomination within three days, he shall be deemed to have vacated his office as a member of said commission.

— powers of. 1892, 406, § 1. 1893, 417, § 93. 1896, 383, § 3. 1898, 548, § 155.

SECTION 158. The state ballot law commission may summon witnesses, and administer to them oaths, and may require the production of books and papers at a hearing before it upon any matter within its jurisdiction. Witnesses shall be summoned in the same manner, be paid the same fees, and be subject to the same penalties as witnesses summoned before the general court. A summons may be signed and an oath may be administered by any member of said commission.

— decision to be final. 1892, 406, § 1.

SECTION 159. The decision of a majority of the members of the commission upon any matter within its jurisdiction shall be final.

1893, 417, § 94. 1896, 383, § 4. 1898, 548, § 156.

— compensation. 1892, 406, § 1. 1893, 417, § 95. 1896, 383, § 5. 1898, 548, § 157.

SECTION 160. The members of the state ballot law commission shall each be paid such compensation for their services, not exceeding five hundred dollars annually, as the governor and council may determine; and the total expenditures by and on account of said commission shall not exceed the sum of two thousand dollars in any one year.

WARDS AND VOTING PRECINCTS.

Wards, new division of cities into. 1865, 7. P. S. 28, §§ 14-16. 1888, 437, §§ 1, 4. 1893, 417, § 96. 1898, 548, § 158.

SECTION 161. A city may, in the year nineteen hundred and five, and in every tenth year thereafter, before the first day of May, by vote of its city council, make a new division of its territory into such number of wards as may be fixed by law. The boundaries of such wards shall be so arranged that the wards shall contain, as nearly as can be ascertained and as may be consistent with well-defined limits to each ward, an equal number of voters. The city clerk shall forthwith give notice in writing to the secretary of the commonwealth of the number and designations of the wards so established.

Voting precincts; designation, division, etc. 1884, 299, § 3. 1890, 423, § 69. 1893, 417, § 97. 1896, 244. 1898, 548, § 159.

SECTION 162. Each city shall be divided into convenient voting precincts, designated by numbers or letters and containing not more than one thousand voters.

Every ward containing, according to the registration of voters at the preceding annual city election, one thousand or less voters shall constitute a voting precinct. If a ward contains, according to such registration, more than five hundred voters, the aldermen may, and if it contains more than one thousand voters, shall, on or before the first Monday of July, divide it into two or more voting precincts. If a voting precinct shall, in any year, according to such

registration, contain more than one thousand voters, the aldermen shall in like manner either divide such precinct into two or more voting precincts or shall make a new division of the ward into voting precincts, so that no precinct shall contain more than one thousand voters. Such precincts shall be so established as to contain, as nearly as may be, an equal number of voters, shall consist of compact and contiguous territory entirely within one ward, and be bounded, so far as possible, by the centre line of known streets or ways or by other well-defined limits.

Voting precincts under new division of wards.
1884, 299, § 3.
1888, 437, § 2.
1890, 423, § 69.

SECTION 163. On or before the first Monday of July in the year of a re-division of a city into wards, the aldermen shall divide such city into voting precincts, conformably to the provisions of the preceding section. 1893, 417, § 98. 1898, 548, § 160.

Former ward lines to continue for certain purposes after new division.
P. S. 6, 7.
1888, 437, § 4.
1893, 417, § 99.
1895, 220.
1898, 548, § 161.
157 Mass. 595.

SECTION 164. For all elections in the year of a re-division of a city into wards, for a special election held prior to the annual state election in the next succeeding year, and for the assessment of taxes, the wards as existing previous to such re-division shall continue, and for such purposes the election officers shall be appointed and hold office, and voting lists shall be prepared, and all other things required by law shall be done as if no such re-division had been made. For all other purposes the new division shall take effect on the first day of May of the year when it is made.

Map or description of new precincts to be published, etc.
1884, 299, § 4.
1890, 423, § 70.
1893, 417, § 100.
1898, 548, § 162.

SECTION 165. When a ward has been divided into new voting precincts, or the voting precincts thereof have been changed, the aldermen shall forthwith cause a map or description of the division to be published, in which the new precincts shall be designated by numbers or letters and shall be defined clearly and, so far as possible, by known boundaries; and they shall cause such map or description to be posted in at least ten public places in each precinct of a ward so divided, and copies thereof furnished to the registrars of voters and the assessors, and to the election officers of each precinct so established.

Voting precincts in towns authorized.
1886, 264, § 1.
1890, 423, § 72.
1893, 417, § 101.
1897, 530, § 6.
1898, 548, § 163.

SECTION 166. A town may direct its selectmen to prepare a division of the town into convenient voting precincts. The selectmen shall, so far as possible, make the centre line of streets or ways, or other well-defined limits, the boundaries of the proposed precincts, and shall designate them by numbers or letters. They shall, within sixty days, file a report of their doings with the town clerk, with a map or description of the proposed precincts, and with a statement of the number of male voters registered in each for the preceding annual election. The report shall be presented by the town clerk at the next succeeding town meeting, but it shall not be acted upon except at a meeting called for the purpose, and held at least seven days after the report has been filed. The division so reported may be amended at such meeting, and shall take effect when adopted. Elections of state officers held in such town more than sixty days after such action shall be held in the precincts so established. If such report shall be rejected the town may at any time direct the selectmen to prepare a new division.

Changes in voting precincts in towns.
1890, 423, § 72.
1893, 417, § 102.
1898, 548, § 164.

SECTION 167. A town may make any change in its voting precincts which the selectmen shall have recommended in a statement giving the boundaries, the designations of the proposed precincts and the number of voters registered in each for the preceding annual state or town election, filed with the town clerk at least seven days before a town meeting called for the purpose; but no changes other than those so proposed by the selectmen shall be made at such meeting.

— map or description of precincts to be posted, etc.
1893, 417, § 103.
1898, 548, § 165.

SECTION 168. When a town has been divided into voting precincts or the voting precincts thereof have been changed, the selectmen shall post in the office of the town clerk and in at least three public places in each new precinct a map or description in which the new precincts shall be designated by numbers or letters, and defined clearly and, so far as possible, by known boundaries; and they shall also furnish copies thereof to the registrars of voters and the assessors of such town, and to the election officers of each precinct so established.

— discontinuance and re-establishment.
1888, 146, §§ 1, 3.
1890, 423, § 73.
1893, 417, § 104.
1898, 548, § 166.

SECTION 169. Any town may, at a meeting called for the purpose, discontinue its voting precincts; and subsequent elections therein shall be held as if no such division had been made. But it may, in any subsequent year, establish voting precincts as hereinbefore provided.

— notice to secretary of the commonwealth of the establishment, etc., of wards or voting precincts.
1888, 146, § 2.
1890, 423, §§ 71–73.

SECTION 170. When wards of a city have been changed or when voting precincts in a city or town have been established, changed or discontinued, the city or town clerk shall forthwith give a notice thereof in writing to the secretary of the commonwealth, stating the number and designation of such wards or such voting precincts and in a city the wards in which they are situated.

1893, 417, § 105. 1898, 548, § 167.

ELECTION OFFICERS.

Election officers; in cities, appointment, qualifications.
1884, 299, § 7.
1888, 436, § 20.
1889, 413, § 20.
1890, 219; 423, § 75.
1891, 256.
1892, 431.
1893, 417, § 106.
1898, 548, § 168.

SECTION 171. The mayor of every city shall annually in September, or as soon thereafter as possible, with the approval of the aldermen, appoint as election officers for each voting precinct, one warden, one deputy warden, one clerk, one deputy clerk, four inspectors and four deputy inspectors, who shall be qualified voters in the ward of which such precinct forms a part. He may, in like manner, appoint two inspectors and two deputy inspectors in addition. Every such nomination shall be acted upon by the aldermen not less than three nor more than ten days after it has been made.

— for voting precincts in towns, appointment.
1890, 423, § 76.
1892, 431.
1893, 417, § 108.
1898, 548, § 169.

SECTION 172. The selectmen of every town divided into voting precincts shall annually, between the first and fifteenth day of October, appoint as election officers for each voting precinct, one warden, one deputy warden, one clerk, one deputy clerk, two inspectors and two deputy inspectors, who shall be voters of the precinct. They may, in like manner, appoint two inspectors and two deputy inspectors in addition.

SECTION 173. Such election officers shall be so appointed as equally to represent the two leading political parties, except that, without disturbing the equal representation of such parties, not more than two of such election officers not representing either of them may be appointed. The warden shall be of a different political party from the clerk, and not more than one half of the inspectors shall be of the same political party. In each case the principal officer and his deputy shall be of the same political party. Every election officer shall hold office for one year, beginning with the first day of November succeeding his appointment, and until his successor is appointed and qualified, or until his removal. An election officer may be removed by the mayor, with the approval of the aldermen, or by the selectmen after a hearing, upon written charges of incompetence or official misconduct preferred by the city or town clerk or by not less than six voters of the ward, or, in a town, of the voting precinct in which the officer is appointed to act.

Election officers; in cities, political representation. 1890, 423, §§ 75, 76. 1893, 417, §§ 106, 108. 1898, 548, § 170.

SECTION 174. In Boston, the election commissioners may upon the day of any election therein, forthwith remove any election officer found to be incompetent or so conducting himself as to prejudice the public interest, and appoint some other person of the same political party in his place; and the officer so removed shall receive no compensation for services rendered on such day, and shall be disqualified for appointment as an election officer for one year thereafter.

—removal of, in Boston. 1896, 393, § 2. 1898, 548, § 171.

SECTION 175. If a vacancy in the number of the election officers occurs before the first day of November in any year, or, in a city, after the annual state election and one week at least before the annual city election, or if an election officer declines his appointment and gives notice thereof to the city or town clerk before the first day of November, or, if at a special election the office of an election officer is vacant, the mayor, with the approval of the aldermen, or the selectmen, shall fill the vacancy; and the appointment shall be so made as to preserve the equal representation of the two leading political parties.

—vacancies; appointment. 1890, 423, §§ 75, 76. 1893, 417, §§ 107, 109. 1898, 548, § 172.

SECTION 176. No person shall, at a state, city or town election, be eligible or act as an election officer in a voting precinct in which he is a candidate for election; and if a person who has been appointed an election officer becomes such a candidate, and does not forthwith resign his office, the mayor or selectmen shall, if he is a candidate at a state election, remove him from office before the first day of November, or, if he is a candidate at a city election, the mayor shall so remove him at least eight days before the day of the election, or if he is a candidate at a town election, the selectmen shall remove him before the election.

—candidates ineligible as. 1884, 299, § 8. 1890, 423, § 78. 1893, 417, § 110. 1894, 132, § 1. 1898, 548, § 173.

SECTION 177. If a warden, clerk or inspector is absent at the opening of the polls or subsequently on the day of election, or if the office is vacant, the deputy of such officer shall act for that election in his place. If the warden and deputy warden, clerk and deputy clerk, or an inspector and his deputy, shall be absent, the voters of the precinct on nomination and by hand vote shall fill

—deputy to act in absence of principal, etc. 1884, 299, § 7. 1890, 423, §§ 75, 76. 1893, 417, §§ 107, 109, 111. 1898, 548, § 174.

the vacancy, and the officer so elected shall act during the remainder of the election; but otherwise no deputy officer shall act in an official capacity or be admitted to the space reserved for election officers while the polls are open or during the counting of the votes.

Ballot clerks of precincts.
1889, 413, § 20.
1890, 423, § 91.
1893, 417, § 113.
1898, 548, § 175.

SECTION 178. At state elections in cities and in towns divided into voting precincts, and in city elections, the presiding election officer of each voting place or precinct shall detail two inspectors of different political parties to act as ballot clerks, who shall have charge of the ballots and shall furnish them to voters.

Presiding officer in towns not divided into precincts.
Const., pt. 2, c. 1, § 2, art. 2.
1795, 55, § 1.
1832, 169, § 1.
R. S. 5, § 6; 6, § 16.

SECTION 179. The selectmen in towns not divided into voting precincts shall, at meetings for the election of state officers, have the powers of wardens in cities or moderators in towns, and shall act by their chairman or senior member present, who shall be regarded as the presiding election officer.

G. S. 7, § 8. 1874, 376, § 22. P. S. 7, § 8. 1890, 423, § 79. 1893, 417, § 114. 1898, 548, § 176.

Ballot clerks in certain towns, appointment, duties.
1890, 386, § 13; 423, § 77.
1891, 31.
1893, 417, § 115.
1898, 548, § 177.

—political representation.

SECTION 180. At state elections in towns not divided into voting precincts, and at town elections in towns in which official ballots are used, the selectmen shall, before the opening of the polls, appoint two voters as ballot clerks, who shall have charge of the ballots and shall furnish them to voters. The selectmen or the moderator presiding at such election may subsequently appoint additional ballot clerks, not exceeding one for every four hundred voters and majority fraction thereof, and may likewise fill any vacancy after the opening of the polls. Such ballot clerks shall be so appointed as to represent the two leading political parties as equally as may be, except that such additional ballot clerks may be appointed from voters not representing either of them.

Oath of office of election officers.
1884, 299, § 7.
1890, 423, §§ 75, 76.
1893, 417, § 112.
1896, 333, § 1.
1898, 548, § 178.

SECTION 181. Every election officer before entering upon the performance of his official duties shall be sworn before the city or town clerk, a justice of the peace, or the presiding officer or clerk at the polls, and a record thereof shall be made. In Boston, the oath, except in case of vacancies filled at the polls, shall be taken before an election commissioner and record thereof made.

Tellers in towns, appointment, duties, etc.
1883, 229.
1885, 261.
1886, 262, § 3.
1890, 423, §§ 78, 80, 215, 222.
1893, 417, § 116.
1895, 285.
1898, 548, § 179.
1899, 326, § 6.
158 Mass. 214.

—political representation.

SECTION 182. Selectmen of towns shall, at least five days before a state or town election, appoint voters as tellers to assist at the ballot box and in checking the names of voters upon the voting lists, and in canvassing and counting the votes. Presiding officers in such towns, at state and town elections, may appoint voters as additional tellers, and they shall do so when requested in writing by ten voters of the town. Tellers appointed at elections at which official ballots are used shall be so appointed that the election officers making and assisting in the canvass and count of votes shall equally represent the two leading political parties.

Election officers, compensation.
1884, 299, §§ 7, 8.
1890, 423, §§ 75, 76, 78.
1893, 417, § 119.
1898, 548, § 180.
152 Mass. 530.

SECTION 183. Election officers shall receive such compensation for each day's actual service as the city council or the selectmen respectively may determine; but no deputy officer shall receive compensation except for attendance at the opening of the polls or for services in place of an absent officer.

SECTION 184. If the office of city clerk shall be vacant, or if a city clerk shall be unable to perform the duties required by this chapter, the mayor shall appoint a clerk pro tempore to perform the duties required hereunder. If the office of town clerk shall be vacant, or a town clerk shall be unable to perform the duties required hereunder, the selectmen shall in writing under their hands, appoint a clerk pro tempore. Such clerk pro tempore shall be sworn to the faithful performance of his duties.

City or town clerk pro tempore.
P. S. 27, § 97.
1890, 423, § 164.
1893, 417, § 117.
1898, 548, § 181.

SECTION 185. The governor, with the advice and consent of the council, shall, upon the petition in writing of ten qualified voters of a ward or of a town, presented to him at least twenty-one days before a state or city election therein, appoint for such ward or town or for each of such voting precincts as may be named in the petition, two voters of the city or town, who shall not be signers of the petition or members of any political committee or candidates for any office, to act as supervisors at such election. One supervisor shall be appointed from each of the two leading political parties. They shall be sworn to the faithful performance of their duties by the city or town clerk or by a justice of the peace. The supervisors shall attend the polling places for which they are appointed, may challenge persons offering to vote, and shall witness the conduct of the election and the counting of votes; but they shall not make any statement tending to reveal the state of the polls before the public declaration of the vote. They shall remain where the ballot boxes are kept after the polls are open and until the ballots are sealed for transmission to the officers entitled to receive them. Each supervisor may affix his signature, for the purpose of identification, to the copy of the record of votes cast, or attach thereto any statement touching the truth or fairness or conduct of the election. Supervisors shall receive such compensation for each day's actual service as the city council or the selectmen may determine.

Supervisors of election; appointment, political representation.
1884, 299, § 9.
1885, 268.
1891, 264, §§ 1, 2.
1893, 417, § 120.
1898, 548, § 182.

—compensation.

VOTING PLACES.

SECTION 186. The aldermen in cities and the selectmen of every town divided into voting precincts shall, thirty days at least before the annual state or city election and ten days at least before any special election of a state or city officer therein, designate the polling place for each voting precinct and shall cause it to be suitably fitted up and prepared therefor. It shall be in a public, orderly and convenient portion of the precinct; but if no such polling place can be had within the precinct, they may designate a polling place in an adjoining precinct. No building or portion of a building shall be designated or used as a polling place in which intoxicating liquor has been sold within the thirty days preceding the day of the election. When the polling places have been designated, the aldermen shall, in at least ten public places in each precinct of the city, and selectmen, in at least three public places in each precinct of the town, forthwith post a printed description of the polling places designated, and may give further notice thereof.

Polling place; designation, preparation, etc.
1884, 299, § 5.
1885, 142.
1890, 423, § 74.
1893, 417, § 121.
1898, 548, § 183.

SECTION 187. The board of aldermen and the selectmen shall cause each polling place in their respective cities and towns to be

—marking shelves and guard rail to be provided.

1888, 436, § 21. 1889, 413, § 21. 1893, 417, § 122. 1898, 548, § 184.

provided with a sufficient number of suitable marking shelves or compartments where voters may conveniently and secretly mark their ballots; and they shall cause a guard rail to be so placed that only persons who are inside thereof can approach within six feet of the ballot boxes or of the marking shelves or compartments. The ballot boxes and the marking shelves or compartments shall be in open view of persons in the polling place outside the guard rail. The number of marking shelves or compartments shall be not less than one for every seventy-five voters at such polling place, and not less than five in any voting precinct of a city, and not less than three in any town or voting precinct thereof. Each marking shelf or compartment shall at all times be provided with proper supplies and conveniences for marking the ballots.

ELECTION APPARATUS AND BLANKS.

State ballot boxes to be provided. 1884, 299, § 10. 1887, 443, § 1. 1888, 434, § 2. 1890, 423, § 84. 1893, 417, § 123. 1898, 548, § 185. 145 Mass. 257, 260.

SECTION 188. The secretary of the commonwealth shall, at the expense of the commonwealth, provide every city and town with a state ballot box for use at every polling place therein. Such ballot box shall be approved by the secretary, the treasurer and receiver general, and the auditor of accounts, or by a majority of them, shall have sufficient locks and keys or seal fastenings, and shall contain mechanical devices for receiving, registering and cancelling every ballot deposited therein; but no such box shall record any distinguishing number or mark upon a ballot. Ballot boxes shall be purchased by the secretary at a price not exceeding fifty dollars each. The secretary shall likewise provide every city and town with suitable blank forms and apparatus, approved as aforesaid, for use at each polling place by the election officers in the canvass and count of votes.

Blanks and apparatus for canvass of votes. 1891, 328, § 1.

Blanks and envelopes for returns of votes, etc. 1857, 295, § 1. G. S. 7, § 20. 1874, 376, § 34. P. S. 7, § 43; 8, § 18; 22, § 28. 1890, 423, § 112. 1891, 329, § 3. 1893, 417, § 124. 1898, 548, § 186.

SECTION 189. The secretary of the commonwealth shall provide every city and town with suitable blank forms and envelopes for all certificates, copies of records and returns required to be made to his office, with such printed directions thereon as he may deem necessary; and such other blank forms and suggestions and instructions, as will assist the election officers in the performance of their duties. The clerk of the courts of the several counties shall in like manner provide cities and towns with suitable blank forms and envelopes for all certificates, copies of records and returns required to be made to the county commissioners and boards of examiners.

Ballot boxes and apparatus, care, repair, etc. 1884, 299, § 14. 1890, 423, § 87. 1891, 329, § 1. 1893, 307; 417, § 125. 1898, 548, § 187.

SECTION 190. The clerk of each city or town shall provide therein a place for the safe keeping of the ballot boxes and counting apparatus furnished by the commonwealth, shall have the care and custody thereof, and shall see that they are kept in good order and repair. The custody, care and repair of all such ballot boxes and apparatus shall be at the expense of the city or town, but shall be subject to the supervision and control of the secretary of the commonwealth, who may, at the expense of the commonwealth, subject to approval as aforesaid, cause necessary improvements to be made in any of such ballot boxes or apparatus.

SECTION 191. If a state ballot box becomes defective or is lost or destroyed, the secretary of the commonwealth shall, upon application by the clerk of the city or town in which such box is used or by the election commissioners of the city of Boston, provide another ballot box at the expense of such city or town.

Defective ballot boxes to be replaced. 1895, 508, § 1. 1898, 548, § 188.

SECTION 192. When state ballot boxes are approved and purchased, the persons of whom they are purchased shall give to the secretary of the commonwealth a bond, with sufficient sureties, to keep them in good working order for two years at their own expense.

Persons of whom boxes are purchased to give bond to keep them in repair. 1895, 508, § 3. 1898, 548, § 189.

SECTION 193. The clerk of every city and of every town divided into voting precincts shall furnish to the clerk of each voting precinct a seal of suitable device, with a designation thereon of such precinct; and such seal shall be used in sealing all envelopes required by law to be used at the elections. The clerk of the precinct shall retain the custody of the seal, and shall, at the end of his term of office, deliver the same, with the records of the precinct and other official documents in his custody, to the city or town clerk.

Precinct seal, use, etc. 1874, 376, § 42. 1876, 188, § 6. 1880, 87. P. S. 7, § 39. 1884, 299, §§ 23, 33. 1890, 423, § 89. 1892, 405. 1898, 548, § 190.

Custody. P. S. 7, § 28. 1893, 417, § 127.

SECTION 194. Every city and town clerk shall send to the election officers at each polling place, before the opening of the polls on the day of an election or meeting at which the same are required to be used, the ballot box, blank forms and counting and other apparatus; and shall send therewith such ballot boxes, ballot box seals, blank forms and apparatus as may be required by the board of aldermen or by the selectmen.

Ballot box, apparatus, to be sent to polling places. 1884, 299, § 16. 1890, 423, § 89. 1891, 328, § 3. 1892, 405. 1893, 417, § 128. 1898, 548, § 191.

PREPARATION AND FORM OF BALLOTS.

SECTION 195. All ballots for use in elections of state officers shall be prepared and furnished by the secretary of the commonwealth; all ballots for use in elections of city officers, by the city clerk; and all ballots for use in elections of town officers, in a town which has voted to use official ballots, by the town clerk. No ballots as herein provided shall be printed in any printing establishment owned or managed by the city of Boston.

Ballots, by whom prepared and furnished. 1889, 413, §§ 1, 10. 1890, 386, § 7. 1893, 417, § 129. 1897, 530, § 21. 1898, 548, § 192. 164 Mass. 489.

SECTION 196. General ballots for the use of male voters in a voting precinct or town shall contain the names of all candidates duly nominated for election therein, and such ballots shall, except as provided in section one hundred and ninety-eight, contain the name of no other person.

To the name of each candidate for a state office shall be added the name of the city or town in which the candidate resides. To the name of each candidate for a city office shall be added the name of the street on which he resides, with his street number, if any; and to the name of each candidate for the office of alderman-at-large shall also be added the number of the ward in which he resides.

To the name of each candidate for a state or city office shall be added his party or political designation, expressed in accordance with section one hundred and forty-six. To the name of each candidate for a town office upon an official ballot shall be added the

General ballots, what to contain. 1888, 436, § 10. 1889, 413, § 10. 1890, 386, § 7; 436, § 2. 1891, 269, 270. 1893, 417, § 130. 1898, 548, § 193. 1899, 220. 1900, 231. 159 Mass. 488.

designation of the party or principle which he represents, contained in the certificate of nomination or nomination papers. No greater number of candidates for any office, bearing the same political designation, nominated otherwise than by nomination papers, shall be placed upon the official ballot than are to be elected.

If the name of a political party is used in connection with some other name or term as the designation of a candidate nominated for a state or city office by a nomination paper, the words "nomination paper", or "nom. paper", shall be added to such political designation.

If a candidate shall receive the nomination of more than one party or more than one political designation for the same office, he may, within the seventy-two hours next succeeding five o'clock of the last day fixed for the filing of nomination papers, by a writing delivered to the officer or board required by law to prepare the official ballot, direct in what order the several nominations or political designations shall be added to his name upon the official ballot; and such directions shall be followed by the said officer or board. If, during said time, said candidate shall neglect to direct in writing as aforesaid, then said officer or board shall add said nominations or political designations to the name of said candidate upon the official ballot in such order as said officer or board shall determine.

Ballots; arrangement of names of candidates on.
1888, 353.
1889, 413, § 10.
1890, 386, § 7; 436, § 11.
1893, 417, §§ 130, 135.
1896, 518, § 2.
1897, 482.
1898, 548, § 194.
177 Mass. 518.
[1 Op. A. G. 3.]

SECTION 197. The names of candidates for every state, city and town office, except the names of candidates for presidential electors, shall be arranged under the designation of the office in alphabetical order according to the surnames; but the names of candidates for the same office but for different terms of service therein shall be arranged in groups according to the length of their respective terms. Blank spaces shall be left at the end of the list of candidates for each different office, equal to the number to be elected thereto, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for such office. If the approval of a constitutional amendment or any other question is submitted to the voters, it shall be printed on the ballot after the names of the candidates.

—special.

Special ballots containing only the names of candidates for school committee shall also be prepared in like manner and printed for the use of women qualified by law to vote for school committee.

—opportunity and directions for marking.

Ballots shall be so printed as to give to each voter an opportunity to designate by a cross [×], or by the stamp provided for that purpose, in a square at the right of the name and designation of each candidate, and at the right of each question, his choice of candidates and his answer to such question; and upon the ballots may be printed such directions as will aid the voter: for example, "vote for one", "vote for two", "yes", "no", and the like. On the back and outside of each ballot when folded shall be printed the words, "Official Ballot for", followed by the designation of the voting precinct or town for which the ballot is prepared, the date of election, and a facsimile of the signature of the secretary of the commonwealth, or city or town clerk who has caused the ballot to be prepared. Special ballots shall have the additional indorsement, "For School Committee only."

—official indorsement.

SECTION 198. The names of candidates for presidential electors shall be arranged in groups as presented in the several certificates of nomination or nomination papers. The groups shall be arranged in the alphabetical order of the surnames of the candidates for president, and the names of the candidates in each group shall be printed upon the ballots in two columns of equal width. If candidates are nominated at large and for the several congressional districts, the name and place of residence of one of the candidates at large shall be put at the head of each column, and the names of the other candidates with their places of residence and the numbers of their congressional districts shall follow in the numerical order of the districts. The surnames of the candidates of each political party for the offices of president and vice president, with the political designation thereof at the right of the surnames, shall be placed in one line above the group of candidates of such party for electors. A sufficient square in which each voter may designate by a cross [×], or by a stamp provided for that purpose, his choice for electors shall be left at the right of each political designation; and no other space or margin shall be left in any such group of candidates.

Ballots; presidential electors, arrangement of names of candidates, etc.
1832, 169, § 1.
R. S. 6, § 15.
G. S. 9, § 11.
P. S. 9, § 11.
1889, 413, § 10.
1890, 423, § 172.
1892, 279, § 1.
1893, 417, § 131.
1898, 548, § 195.

SECTION 199. The official ballots shall, except as otherwise provided herein, be of ordinary white printing paper, of two or more pages, and shall, before distribution, be so folded as to measure not less than four and one-half inches nor more than five inches in width and not less than six inches nor more than thirteen and one-half inches in length. The names of all candidates shall be printed in black ink in lines at a right angle with the length of the ballot. The names of all candidates, other than candidates for presidential electors and for president and vice president, and the initial letters of all names of candidates for presidential electors, shall be in capital letters not less than one-eighth of an inch nor more than one-quarter of an inch in height. The surnames and political designations of the candidates for president and vice president shall be in capital letters not less than three-sixteenths of an inch in height.

The special ballots shall be printed on colored paper of a different color from that of specimen ballots.

—paper, size, form, type, etc.
1889, 413, § 10.
1890, 386, § 7; 423, § 81.
1892, 279, § 1.
1893, 417, § 132.
1898, 548, § 196.

SECTION 200. Two sets of ballots, each of not less than sixty ballots for every fifty and fraction of fifty voters, shall be provided for each polling place at which an election for state or city officers is to be held. Two sets of special ballots, each of not less than sixty ballots for every fifty and fraction of fifty women registered to vote for school committee shall be provided for each polling place at which an election for city officers is to be held.

—how many to be provided for state and city elections.
1888, 436, § 12.
1889, 413, § 12.
1890, 436, § 7.
1893, 417, § 133.
1898, 163; 548, § 197.

If ballots are prepared by the town clerk, one set of general ballots of not less than sixty ballots for every fifty and fraction of fifty voters shall be provided. One set of special ballots of not less than sixty ballots for every fifty and fraction of fifty women registered to vote for school committee shall be provided.

—how many to be provided for town elections.
1890, 386, § 9.
1898, 163.

A sufficient number of partial ballots in state elections shall be prepared for voters who may be entitled to vote for a part only of the officers to be voted for in a city or town. A statement shall be printed on the back of such ballots, in addition to the official

Amend. const., art. 30.

indorsement, indicating the class of voters for whose use the ballots are furnished, and such ballots only shall be furnished to such voters.

Ballots; to be arranged in packages, etc.
1888, 436, § 11.
1889, 413, § 11.
1890, 386, § 8.
1893, 417, § 134.
1898, 548, § 198.

SECTION 201. Ballots, in convenient numbers, shall be arranged in packages. A record of the number of ballots printed and delivered to each polling place shall be kept by the secretary of the commonwealth, or the city or town clerk, for one year.

— in case of vacancy.
1890, 436, § 4.
1891, 278.
1893, 417, § 136.
1898, 548, § 199.

SECTION 202. If a vacancy occurs or is declared in the list of nominations, the name of the candidate nominated to fill such vacancy shall, if the ballots have not been printed, be placed on them or, if the ballots have been printed, ballots containing the new nomination shall, when practicable, be substituted.

INFORMATION TO VOTERS.

Cards of instruction.
1888, 436, § 13.
1889, 413, § 13.
1890, 386, § 10.
1893, 417, § 137.
1898, 548, § 200.

SECTION 203. The secretary of the commonwealth in state elections, city clerks in city elections, and town clerks in town elections at which official ballots are used, shall, for every such election, prepare and cause to be printed in large clear type cards containing full instructions to voters for obtaining ballots, marking them, obtaining assistance and new ballots in place of those accidentally spoiled; and on separate cards such abstracts of the laws imposing penalties upon voters as they shall deem proper. They shall also provide for each polling place ten or more specimen ballots which shall be facsimiles of the ballots provided for voting, but printed without the indorsements and on colored paper. The secretary of the commonwealth shall provide copies of any proposed amendment to the constitution submitted to the people, with a heading in large type, Proposed Amendment to the Constitution.

Specimen ballots.

Copies of proposed constitutional amendments.
1892, 124, § 2.

Secretary of the commonwealth to transmit lists of candidates, etc., to registrars.
1888, 436, § 14.
1889, 413, § 14.
1892, 124, § 2.
1893, 417, §§ 138–140.
1898, 548, § 201.

SECTION 204. The secretary of the commonwealth shall, at least five days before state elections, transmit to the registrars printed lists of the names, residences and designations of candidates to be voted for at each polling place, substantially in the form of the official ballot, and also printed copies of any proposed amendment to the constitution. The registrars shall, upon the receipt thereof, conspicuously post in one or more public places in each voting precinct or town the lists and copies aforesaid for such precinct or town.

Lists of candidates, how posted in cities.
1889, 413, § 15.
1893, 417, § 139.
1898, 548, § 202.

SECTION 205. City clerks shall, at least four days before a city election, cause to be posted in every voting precinct the names, residences and designations of all candidates duly nominated and to be voted for in such city, substantially in the form of the official ballot, and cause the same to be published in at least two newspapers, if there are so many published in said city, representing so far as practicable the two leading political parties.

— in towns.
1890, 386, § 11.
1893, 417, § 140.
1898, 548, § 203.

SECTION 206. Town clerks in towns using official ballots shall, at least four days before an election therein, cause to be posted in one or more public places the names, residences and designations of all candidates duly nominated and to be voted for in such town, substantially in the form of the official ballot.

SECTION 207. The secretary of the commonwealth, before state elections, shall cause to be published a list of all candidates to be voted for in the county and the question on the approval and ratification of any proposed amendment to the constitution, and the city clerks before city elections, a list of all candidates to be voted for in their respective cities. Such lists and questions shall be in the form, as near as may be, in which they are to appear upon the official ballot, and said publication shall be made for state elections in at least two newspapers in the county and for city elections in at least two newspapers in the city, if there are so many in the county or city, representing so far as practicable the two leading political parties.

Secretary of the commonwealth, etc., to publish list of candidates, etc.
1888, 436, § 15.
1889, 413, § 15.
1890, 386, § 11.
1893, 417, §§ 138, 139.
1898, 548, § 204.

DELIVERY OF BALLOTS, ETC.

SECTION 208. Each set of ballots, for state elections, shall be enclosed in one package by the secretary of the commonwealth, sealed and marked with the number of ballots of each kind therein, and specimen ballots, cards of instruction and copies of any proposed amendment to the constitution shall be enclosed in another package, and the whole shall be further enclosed in a single package with marks on the outside indicating its contents and the polling place for which it is intended.

Preparation of ballots, etc., for transmission.
1888, 436, § 16.
1889, 413, § 16.
1892, 316.
1893, 417, § 141.
1898, 548, § 205.

He shall transmit to the city or town clerks at different times or by different means two sets of ballots, cards of instruction and copies of proposed amendments to the constitution, so that both sets shall be received at least twelve hours before the date of election, and the clerks shall return receipts therefor to the secretary. He shall keep a record of the time when and the manner in which the several packages are transmitted, and shall preserve the receipts therefor for one year.

Delivery of ballots.
1888, 436, § 17.
1889, 413, § 17.
1892, 316.
1893, 417, §§ 142, 143.

The clerk of each city and the clerk of each town using official ballots shall enclose the ballots, specimen ballots and cards of instruction for city or town elections in the same manner.

SECTION 209. The city or town clerk shall, on the day of every state or city election, before the opening of the polls, transmit to the election officers of each polling place therein, one set of ballots with accompanying specimen ballots, cards of instruction and copies of proposed amendments to the constitution, which have been provided for such polling place; and the presiding election officer at the polling place shall receipt therefor to the clerk, and such receipt, with a record of the number of ballots transmitted, shall be kept in the clerk's office for one year. The second set of ballots shall be retained by the clerk until the receipt by him of a requisition in writing of the presiding election officer of any polling place, when it shall be transmitted to such polling place in the manner above provided as to the first set. At town elections, the town clerk shall deliver all such ballots, the specimen ballots and cards of instruction at the polling place on the day of the election before the opening of the polls.

Delivery at polls on day of state and city election.
1888, 436, § 18.
1889, 413, § 18.
1890, 386, § 14; 436, § 8.
1893, 417, § 144.
1898, 548, § 206.

SECTION 210. If the ballots provided for any polling place are not delivered, or if after delivery they are destroyed or stolen, the city or town clerk shall cause similar ballots to be prepared; and

Substitute ballots.
1888, 436, § 19.
1889, 413, § 19.
1893, 417, § 145.

1898, 548, § 207. 159 Mass. 489.

upon receipt of such new ballots, accompanied by a statement by the clerk under oath that they have been so prepared and transmitted by him, and that the original ballots have not been delivered or have been so destroyed or stolen, the ballots so substituted shall be used.

CALLING OF ELECTIONS.

Annual state election, date, officers to be chosen.
Const., pt. 2, c. 1, § 3, arts. 1, 2, 3; c. 2, § 1, arts. 2, 3; § 2, art. 1.
Amend. const., arts. 15–17, 19, 21, 22, 36.
1832, 169.
1833, 68.
R. S. 6, §§ 3, 13.
1848, 35.
G. S. 8, § 1; 9, §§ 3, 9, 10.
P. S. 8, § 1.

SECTION 211. The annual state election for the choice of governor, lieutenant governor, councillors, secretary, treasurer and receiver general, attorney general, auditor of accounts, and senators and representatives in the general court, shall be held on the Tuesday next after the first Monday in November. There shall also be chosen at the annual state election, when required by law, presidential electors, and, in their respective districts or counties, representatives in congress, district attorneys, clerks of the courts, registers of probate and insolvency, registers of deeds, county commissioners, associate commissioners, sheriffs and county treasurers. P. S. 9, §§ 3, 9, 10; 10, § 1. 1890, 423, §§ 147, 165, 170, 171, 188. 1893, 417, § 146. 1898, 548, § 208. 11 Mass. 424.

Calls for elections.
1884, 299, § 2.
1890, 423, §§ 67, 68.
1893, 417, § 147.
1898, 548, § 209.
163 Mass. 411, 423.

SECTION 212. Meetings of the voters of each city for the election of state officers and city officers shall be called by the aldermen, and the city clerk shall, under their direction, cause notice of such meetings to be printed in one or more newspapers published in such city and to be conspicuously posted in the office of the city clerk; and in Boston, in at least four daily newspapers published therein. Such notices shall be in lieu of the notices or warrants for election required in any city by special statutes. Meetings of the voters of each town for the election of state officers and town officers shall be called as provided in section three hundred and twenty-eight. Meetings for the annual state, city and town elections shall be called at least seven days before the day prescribed for the holding thereof.

— to specify officers to be elected and questions to be submitted, etc.
1884, 299, § 1.
1890, 386, § 3; 423, §§ 66–68, 148, 165, 171.
1891, 314.
1892, 124, § 1.
1893, 417, § 148.
1898, 548, § 210.

SECTION 213. Notices or warrants for meetings for state and city elections and for the election of town officers in towns where official ballots are used shall specify by name all the offices to be voted for, and state in full any proposed amendment to the constitution or other question submitted to the people. They shall specify the time when the polls will be opened, and in cities, when the polls will be closed, and in towns, when they may be closed.

Time of opening and closing polls, etc., in cities.
P. S. 7, §§ 1, 2.
1898, 83, § 1.

In cities, the polls may be opened as early as six o'clock in the forenoon and shall be opened as early as ten o'clock in the forenoon and shall be kept open at least six hours, but in no case after the hour of sunset.

— in towns.
1874, 376, § 21.
1879, 2.
P. S. 7, § 3.
1901, 116.

In towns, at the election of state and town officers, the polls may be opened as early as six o'clock in the forenoon and shall be opened as early as twelve o'clock, noon, and shall be kept open at least four hours, and until the time specified in the warrant when they may be closed; and they may be kept open for such longer time as the meeting shall direct, but they shall not be kept open after the hour of sunset. At annual town meetings they shall be kept open at least one hour for the reception of votes upon the question of licensing the sale of intoxicating liquors. After an announcement has been made by the presiding officer of a time so fixed for closing the polls they shall not be closed at an earlier hour.

CONDUCT OF ELECTIONS.

SECTION 214. At an election of state or city officers, the presiding election officer at each polling place in a city or town shall, before the opening of the polls, post at least three cards of instruction, three copies of proposed constitutional amendments, if any, and at least five specimen ballots within the polling place outside the guard rail, and the cards of instruction and a copy of any proposed amendment in each marking compartment; and no other poster, card, handbill, placard, picture or circular intended to influence the action of the voter, except a paster to be placed upon the official ballot, shall be posted, circulated or distributed in the polling place, in the building in which the polling place is located, on the walls thereof, on the premises on which the building stands or on the sidewalk adjoining the premises where such election is being held. Pasters to be placed on the official ballot shall be subject to all the restrictions imposed by sections one hundred and ninety-six and one hundred and ninety-nine as to names, residences and political designations of candidates and the size of type in which the names shall be printed. The presiding election officer shall, at the opening of the polls, publicly open the packages containing the ballots and deliver them to the ballot clerks.

State and city elections, posting of instructions, etc.
P. S. 7.
1889, 413, § 18.
1892, 124, § 2; 316.
1893, 417, § 149.
1895, 275, § 1.
1896, 469, § 8.
1898, 548, § 211.

Certain handbills, etc., not to be circulated, etc

Delivery of ballots to ballot clerks.

The town clerk shall, on the day of the election, before the opening of the polls, deliver the ballots to the ballot clerks, who shall receipt therefor, and their receipt shall be preserved in the office of the clerk for the period of one year. If a moderator presides at such election, no such ballots shall be delivered to voters until he has been chosen.

SECTION 215. The state ballot boxes shall be used for receiving the ballots in state and city elections, and in town elections where official ballots are used. The election officers at each polling place shall, at the opening of the polls and before any ballots are received, publicly open the ballot box, and ascertain by personal examination, and publicly show that the same is empty, and shall immediately thereafter lock or fasten the box. The clerk of the precinct or town shall make a record of the condition of the box register, and, if a key is used, it shall be retained by the police officer or constable at the polling place. The ballot box shall not, after it is shown to be empty, be removed from public view until all ballots have been removed therefrom and the box has been relocked or sealed. The ballot box shall not be opened nor any ballot removed therefrom until the polls are closed, except as provided in section two hundred and thirty-seven; but in order to make room for ballots, the presiding officer may, in the presence of all the election officers, open the box and pack and press down the ballots therein.

State ballot boxes to be used, etc.
1887, 443, § 1.
1888, 434, § 2.
1890, 423, §§ 84, 85, 95.
1893, 146, § 1; 417, § 150.
1894, 275, § 1.
1895, 240.
1898, 548, § 212.

Ballot box; at opening of polls to be empty.
1877, 209, § 5.
P. S. 7, § 20.
1884, 299, § 16.
1890, 423, § 89.
1892, 405.
1893, 146, § 1.

— to be in public view.

— opening, removal of ballots, etc.

The presiding officer of each polling place shall have charge of the ballot box and ballot box seal, and shall, at the close of each election, return the same, either personally or by a police officer or constable in attendance at the polling place, to the city or town clerk.

— to be in charge of presiding officer until returned.
P. S. 7, § 28.
1874, 376, § 41.
1880, 87.

If it becomes impossible to use the state ballot box, the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot

— proceedings when it cannot be used.
1884, 299, § 12.
1888, 434, § 3.

1890, 423, § 85. 145 Mass. 257, 260.

box is not used, and shall enclose an attested copy of such record in the envelope with the ballots cast. The provisions as to the use and custody of the state ballot box shall, so far as applicable, apply to the ballot box substituted therefor.

Voting lists, delivery, use. 1889, 413, §§ 20, 22. 1890, 386, § 14; 423, § 90. 1893, 417, § 151. 1898, 548, § 213. 12 Pick. 485. 103 Mass. 543.

SECTION 216. One voting list shall be delivered to the ballot clerks and another to the officers in charge of the ballot box. When a ballot is delivered to a voter, his name shall be checked on the first and when he deposits his ballot it shall be checked on the second. The officer in charge of the ballot box and the officer in charge of the voting list shall be of different political parties.

111 Mass. 256. 138 Mass. 214.

No statements prior to declaration of vote. 1874, 376, § 54. P. S. 7, § 53. 1888, 203, § 1. 1890, 423, § 123. 1893, 417, § 152.

SECTION 217. No election officer shall, before the public declaration of the vote, make any statement of the number of ballots cast, the number of votes given for any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls. 1898, 548, § 214.

Persons permitted inside guard rail. 1889, 413, § 21. 1893, 417, § 153. 1898, 548, § 215.

SECTION 218. No persons except the election officers, supervisors, and voters admitted for the purpose of voting, shall, during the progress of an election and until the public declaration of the vote, be permitted within the guard rail, unless authorized by the election officers for the purpose of keeping order and enforcing the law.

Number of voters within guard rail. 1889, 413, § 22. 1893, 417, § 154. 1898, 548, § 216.

Time for deposit of ballots at close of polls.

SECTION 219. No more than four voters, besides election officers and supervisors, in excess of the number of marking compartments provided, shall be allowed at one time within the guard rail, and except the election officers and supervisors, no voters shall be admitted therein after the time fixed for closing the polls; but voters previously admitted shall be allowed five minutes after the time so fixed to deposit their ballots.

Presiding officers, powers and duties. 1884, 299, § 37. 1889, 413, § 23. 1890, 423, § 125. 1893, 417, § 156. 1898, 548, § 217. 16 Mass. 385.

SECTION 220. The presiding officer at each polling place shall enforce the performance of their duties by election officers. He shall have authority to maintain order and to enforce obedience to his lawful commands, during an election and the counting of the ballots after the close of the polls, in and about the polling place and to keep the access thereto open and unobstructed, and he may require any police officer, constable or other person to communicate his orders and directions and assist in their enforcement.

Police officers to preserve order. 1884, 299, § 38. 1890, 423, § 126. 1893, 417, § 157. 1898, 548, § 218.

SECTION 221. The board or officer in charge of the police force of each city and town shall detail a sufficient number of police officers or constables for each polling place at every election therein to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the provisions of this chapter.

Persons smoking or having liquor, etc., to be removed. 1881, 273. P. S. 7, § 64. 1890, 423, § 139.

SECTION 222. Any person who, during an election or town meeting, shall, in a polling place or place of such meeting, smoke or have in his possession a lighted pipe, cigar or cigarette, or carry into any such place or keep therein any intoxicating liquor, shall be

deemed guilty of disorderly conduct; and the presiding officer shall order him to remove such pipe, cigar, cigarette or liquor, or to withdraw from such place, and for disobedience of such order shall cause him to be removed from such polling place or meeting. 1893, 417, § 158. 1898, 548, § 219.

SECTION 223. If a person at an election refuses to obey the lawful commands of the presiding officer or, by disorderly conduct interrupts or disturbs the proceedings of an election officer, the presiding officer may require any police officer, constable or other person to take him into custody and detain him until after the election; but the presiding officer may at any time order his release. Such order of detention shall not be so enforced as to prevent such person, if a voter at that polling place, from voting. Offender to be detained, etc., but not prohibited from voting. 1884, 299, § 39. 1890, 423, §§ 51, 127. 1893, 417, § 159. 1898, 548, § 220. 16 Mass. 385.

SECTION 224. Every election officer shall forthwith report any violation of the provisions of sections two hundred and eleven to two hundred and sixty-nine, inclusive, to the police officer or constable in attendance at the polling place, and such police officer or constable shall cause the offender to be prosecuted. Duties of officers when law is violated. 1889, 413, § 27. 1893, 417, § 160. 1898, 548, § 221.

MANNER OF VOTING.

SECTION 225. Each voter desiring to vote at a polling place where official ballots are used shall give his name and, if requested, his residence to one of the ballot clerks, who shall thereupon distinctly announce the same; and if such name is found upon the voting list by the ballot clerk, he shall check and repeat the name and give one ballot to such voter, who shall then be admitted within the guard rail. If not entitled to vote for all the offices upon the ballot, he shall receive a partial ballot. If the voter is a woman, she shall receive a special ballot containing the names of candidates for school committee only. Manner of voting, etc. 1884, 299, § 16. 1888, 436, § 22. 1889, 413, § 22. 1890, 423, § 91. 1893, 417, § 161. 1898, 548, § 222. 1899, 323.

SECTION 226. City and town clerks may provide, for use at caucuses and elections, as many stamps as there are marking compartments at each polling place. The design of the stamps for caucuses shall be the number of the ward, with a cross, thus: × 7, and for elections the number of the ward and precinct, with cross, thus: × 7/9. At caucuses and elections for which such stamps are provided, they shall be used by all voters in marking their ballots, and ballots not so marked shall not be counted, but ballots from which the stamp mark has been erased with pencil or other device shall be counted as though no erasure had been made. The caucus or precinct clerk shall have the custody of such stamps and shall, before the opening of the caucus or polls, in the presence of the voters and caucus or precinct officers, cause such stamps to be chained to each marking compartment; and he shall, immediately after the polls are closed and before the ballots are removed from the ballot box, and in the presence of the voters and caucus or precinct officers, place said stamps in a box, which shall be locked and sealed, and be by him returned to the city or town clerk or to the election commissioners. In Boston, the police officer in attendance at each caucus or voting precinct shall have the custody of the stamps and perform the duties connected therewith imposed on the precinct clerks in other cities. Stamps for marking ballots. 1896, 518, § 1. 1898, 548, § 223.

Marking of ballot.
1888, 436, § 23.
1889, 413, § 23.
1893, 417, § 162.
1898, 548, § 224.
177 Mass. 518.
[1 Op. A. G. 3.]

SECTION 227. The voter on receiving his ballot shall, without leaving the enclosed space, retire alone to one of the marking compartments, and shall, except in the case of voting for presidential electors, prepare his ballot by making a cross [×] in the square at the right of the name of each candidate for whom he intends to vote or by inserting the name of such candidate in the space provided therefor and making a cross in the square at the right; and, upon a question submitted to the vote of the people, by making a cross in the square at the right of the answer which he intends to give.

— voting for presidential electors.
1892, 279, § 2.
1893, 417, § 163.
1898, 548, § 225.
[1 Op. A. G. 389.]

SECTION 228. A voter may vote for an entire group of candidates for presidential electors by making a cross [×] in the square at the right of the party or political designation immediately above such group. If a voter does not intend to vote for any one candidate in the group, he may erase his name, and the cross shall count as a vote for each of the other candidates in such group. If a voter desires to vote for another person in place of a candidate whose name he has erased, he may insert his name in one of the blank spaces and make a cross in the square at the right thereof. A voter who does not mark for any group of candidates may vote for candidates for electors, up to the number to be elected, by inserting names in the blank spaces at the end of the groups of electors and making a cross in the square at the right of each name so inserted.

— assistance to voter.
1888, 436, § 25.
1889, 413, § 25.
1898, 548, § 226.

SECTION 229. A voter who declares on oath to the presiding officer that he had the right to vote on the first day of May in the year eighteen hundred and fifty-seven and cannot read, or that from blindness or other physical disability he is unable to prepare his ballot shall be assisted in the marking thereof by one or two of the election officers, who shall be of such political party, represented among the election officers, as the voter may request; and they shall certify, on the outside of the ballot that it was marked with their assistance, and shall thereafter give no information regarding the same.

— officers' certificate.
1891, 238.
1893, 417, § 164.
159 Mass. 489.

Distinguishing marks on ballots prohibited.
1889, 413, § 27.
1892, 368.
1893, 417, § 165.

SECTION 230. Except as authorized by this chapter, no voter, election officer or other person shall place any mark upon a ballot by which it may be identified; nor shall any person place a mark against any name upon a ballot not cast by himself. 1898, 548, § 227.

Additional ballots, how obtained.
1888, 436, § 24.
1889, 413, § 24.
1893, 417, § 166.

SECTION 231. If a voter spoils a ballot, he may obtain two others, one at a time, upon returning each spoiled one, and all ballots so returned shall immediately be cancelled by the election officers. 1898, 548, § 228. 159 Mass. 488.

Voter to fold ballot after marking.
1889, 413, § 23.
1893, 417, § 167.
1898, 548, § 229.
159 Mass. 488.

Time allowed voter in enclosed space, etc.

SECTION 232. Before leaving the marking compartment the voter shall fold his ballot, without displaying the marks thereon, as it was folded when received by him, and he shall keep it so folded until he has voted. A voter shall mark and deposit his ballot without undue delay, and shall leave the space enclosed by the guard rail as soon as he has voted. No voter shall occupy a marking compartment occupied by another, nor remain within the guard

rail more than ten minutes, nor occupy a voting compartment more than five minutes, if all the marking compartments are in use and other voters are waiting to occupy the same.

Deposit of ballot.
1889, 413, §§ 23, 26, 27.
1890, 423, §§ 90, 91.
1893, 417, § 168.
1898, 548, § 230.
12 Pick. 485.
103 Mass. 543.
111 Mass. 256.
138 Mass. 214, 215.
140 Mass. 390, 396.
177 Mass. 518.

SECTION 233. A voter after marking his ballot shall give his name and, if requested, his residence, to the presiding officer, who shall distinctly announce the same. If the name is found upon the voting list by the election officer, he shall distinctly repeat the name and check it upon the voting list; and the voter may then deposit his ballot in the ballot box with the official indorsement uppermost and in sight. No ballot without the official indorsement, except as provided in section two hundred and ten, shall be deposited in the ballot box. No person shall vote if his name is not on the voting list, nor until the election officer shall check his name thereon, unless he presents a certificate from the registrars of voters as provided by section sixty-four.

Voter to be checked on list or certificate.
1874, 376, § 23.
P. S. 7, § 9.

No ballot to be removed.
Voter not to reënter enclosed space.
1888, 436, § 24.
1889, 413, §§ 23, 24.

SECTION 234. No person shall remove any ballot from the space enclosed by the guard rail before the polls are closed. No voter whose name has been checked on the voting list in charge of the ballot clerk, other than an election officer or supervisor, shall again enter such enclosed space during the election. 1893, 417, § 169. 1898, 548, § 231.

Challenged votes.
1877, 206.
P. S. 7, §§ 22, 23.
1890, 423, § 92.
1892, 332, § 1.
1893, 417, § 170.
1897, 530, §§ 7, 9.
1898, 548, § 232.

SECTION 235. If in any state, city or town election at which official ballots are used the right of a person offering to vote is challenged for any legal cause, the presiding officer shall administer to him the following oath:

> You do solemnly swear [or affirm] that you are the identical person whom you represent yourself to be, that you are registered in this precinct [or town] and that you have not voted at this election.

He shall also be required to write his name and residence on the outside of the ballot offered, and the presiding officer shall add thereto the name of the person challenging and the cause assigned therefor, whereupon such ballot shall be received; and no person shall make any statement or give any information in regard thereto, except as required by law. The clerk shall record the name and residence of every person who has been challenged and has voted.

COUNTING OF VOTES.

State blanks and apparatus for counting votes to be used.
1891, 328, §§ 1, 2.
1893, 417, § 171.
1898, 548, § 233.

SECTION 236. The blank forms and apparatus provided by the secretary of the commonwealth shall be used in ascertaining the result of the election or vote in state elections in cities and towns, in city elections, in elections of town officers in towns in which official ballots are used, and also in taking the vote upon any proposed amendment to the constitution, upon the question of granting licenses for the sale of intoxicating liquors, and upon any other question submitted by statute to the voters of the commonwealth, or of any city or town in which official ballots are used. If it is impossible to use such blank forms or apparatus, the canvass of the votes shall be made as the presiding officer shall direct; and the clerk shall record the facts relating to the failure to use such blank forms

or apparatus, and shall enclose an attested copy of such record in the envelope with the ballots cast.

Proceedings at close of polls.
1857, 171.
G. S. 7, § 15.
P. S. 7, § 26.
1884, 299, § 19.
1890, 423, § 95.
1891, 328, § 4.
1892, 431.
1893, 146; 308; 417, § 172.
1895, 240.
1898, 548, § 234.
1899, 209.
[1 Op. A. G. 3.]

SECTION 237. If the state ballot box is used, the clerk shall, as soon as the polls are closed, record the ballot box register. The election officers shall then, publicly and in the presence of the other election officers, count audibly and distinctly the number of names checked on each list and announce the same. The ballot box shall then be opened by the presiding officer and the ballots taken therefrom and audibly counted, one by one, and the whole number of ballots cast shall be publicly announced by him. The ballots may be divided into convenient packages, and, except as hereinafter provided, each block or package shall be canvassed and counted by two election officers representing the two leading political parties, detailed by the presiding officer. Each election officer, in so canvassing and counting votes, shall be under the inspection of an election officer of a different political party. The result of the canvass and count shall be reported to the presiding officer, who shall cause it to be correctly recorded on the blank forms provided for the purpose. At state elections in towns not divided into voting precincts, the canvass and count of votes shall be made by the selectmen and town clerk, who may be assisted by the tellers.

Town or precinct clerk to make public announcement.

The clerk in open meeting shall publicly announce the result of the vote and enter in his records, in words at length, the total number of names of male and female voters checked on the voting lists, the total number of ballots cast, the names of all persons voted for, the number of votes for each person and the title of the office for which he was a candidate, the number of blank ballots for each office, and the number of affirmative and negative votes in answer to any question submitted to the voters, and shall forthwith make a copy of such record, certify and seal up the same, and deliver it to the city or town clerk, who shall forthwith enter it in his records.

Voting lists, ballots after removal from ballot box, etc., to be kept in view, etc.

The voting lists and all ballots removed from the ballot box shall be kept in open view of the voters present until enclosed and sealed up, and all proceedings in the canvass and counting of votes shall be public and in open view of the voters, and there shall be no adjournment or postponement until the canvass and counting have been completed, and the voting lists and ballots have been enclosed and sealed up.

Removal of ballots from ballot box before voting has ceased; counting, etc.
P. S. 7.
1884, 298, § 20.
1892, 405.
1893, 146; 417, §§ 150, 172, 173.
1894, 275.
1901, 89.

In towns, and after two o'clock in the afternoon in cities of less than fifty thousand inhabitants, according to the last national or state census, the ballot box at any polling place may be opened and ballots taken therefrom for counting when all the selectmen and the town clerk, or both the moderator and the town clerk, as the case may be, or all the election officers at the voting precinct shall so order. When the ballots have been thus removed, the presiding officer shall select from the election officers an equal number from each of the two leading political parties, who shall canvass such ballots, in accordance with the provisions of this section; but no announcement of the result of such canvass shall be made by any election officer until the total result of the canvass of ballots has been ascertained.

SECTION 238. If the use of a state ballot box is required, no ballot shall be counted unless it has been deposited in and cancelled by such ballot box, or has been otherwise deposited according to the provisions of section two hundred and fifteen; and no ballot shall be counted in any election for which official ballots are provided except such ballots. If a voter marks more names than there are persons to be elected to an office, or if his choice cannot be determined, his ballot shall not be counted for such office. Ballots cast but not counted shall be marked "defective" on the outside thereof, and shall be preserved like other ballots.

Certain ballots not to be counted.
1888, 436, § 26.
1889, 413, § 26.
1890, 423, § 84.
1893, 417, § 173.
1898, 548, § 235.
164 Mass. 489.

Defective ballots.

SECTION 239. The presiding officer at every polling place at elections of state and city officers and of town officers in towns in which official ballots are used shall, after the record of the counting has been made, cause all ballots cast to be publicly enclosed in an envelope and sealed up with the seal provided for the purpose, and also with the private seal of any election officer who may desire to affix the same; and a majority of the election officers of the voting precinct or town shall indorse upon such envelope the polling place, the election and the date, and also a certificate that all the ballots cast by the voters of such precinct or town, and none other, are contained therein. He shall cause all ballots not cast to be enclosed in an envelope and sealed up as aforesaid, and shall certify on the envelope the contents thereof. Such presiding officer shall cause the voting lists to be enclosed in an envelope and sealed up as aforesaid, and a majority of the election officers shall certify thereon to the identity of the voting lists enclosed. He shall forthwith personally deliver to the city or town clerk, or in Boston to the election commissioners, or transmit to him or them, by the police officer or constable in attendance at the election, all the ballots cast, and not cast, the voting lists, the ballot box, ballot box seals and counting apparatus.

Ballots cast to be sealed up, indorsed, etc.
1884, 299, § 22.
1889, 413, §§ 24, 26.
1890, 386, §§ 14, 16; 423, §§ 97, 98.
1893, 417, § 174.
1898, 548, § 236.

Voting lists, etc., to be sealed up, etc.
P. S. 7, § 29.
1884, 299, § 24.

Ballots and lists to be delivered to city or town clerk.
P. S. 7, § 28.

SECTION 240. Upon written application, signed by at least ten voters in the town or ward of which the precinct forms a part, the city or town clerk, and in Boston, the election commissioners, may open the envelope containing such voting list and may make a copy of the list as checked. In Boston, such copies shall contain only the name and residence of the voter. After any such voting list has been so copied, said clerk or board shall at once enclose the list in an envelope and seal up the same and certify thereon to the identity of such lists.

Voting list, copies of.
1884, 299, § 24.
1893, 417, § 175.
1897, 530, § 3.
1898, 548, § 237.

SECTION 241. City and town clerks shall retain in their custody the envelope containing the ballots cast, without examining them or permitting them to be examined by any person except as required by law, and upon the expiration of the period fixed for their preservation shall cause such ballots to be destroyed.

City and town clerks shall retain in their custody the voting lists and ballots not cast as long as they retain the ballots cast. They shall then transmit such voting lists to the registrars of voters for future reference, and shall destroy the cancelled ballots.

Ballots cast, custody, destruction.
Voting lists.
1876, 188, § 1.
P. S. 7, § 34.
1882, 74.
1884, 299, § 26.
1889, 413, §§ 24, 26.
1890, 386, §§ 14, 16; 423, §§ 100, 101.
1893, 417, § 176.
1898, 548, § 238.

145 Mass. 257. 157 Mass. 403.

RECORDS AND CERTIFICATES OF ELECTION.

Record not to be rejected if votes ascertainable.
1852, 209, § 1.
G. S. 7, § 16.

SECTION 242. No record of votes cast or copy thereof shall be rejected if the number of votes given for each candidate for an office can be ascertained therefrom. 1874, 376, § 27. P. S. 7, § 37; 8, § 10. 1890, 423, §§ 102, 151. 1893, 417, § 177. 1898, 548, § 239.

Examination of precinct returns, correction, etc.
1852, 209, § 1.
G. S. 7, § 16.
P. S. 7, § 37.
1890, 423, § 102.
1892, 190, § 1.
1893, 417, § 178.
1898, 548, § 240.

SECTION 243. The aldermen and city clerk, in Boston the election commissioners, and the selectmen and town clerk in towns divided into voting precincts, shall forthwith after a state or city election examine the copies of the records of the election officers, and if any error appears therein, they shall forthwith give notice thereof to the officers by whom the error was made, who shall forthwith make an additional record under oath in conformity with the facts and deliver a copy thereof to the city or town clerk or board. Such copy of the records made, with or without notice as aforesaid, shall be received by the city or town clerks or board at any time before the last day fixed for the transmission of copies of records of the votes cast in the city or town, or on which the results of the election are required to be declared.

— certification of copies.

The aldermen and city clerk, the election commissioners, and the selectmen and town clerk, shall examine all original and all additional copies of the records and make them part of the records of such election, and shall certify and attest copies of the records of votes for the several candidates.

City and town clerks to make return.
G. S. 7, § 17.
1881, 65.
P. S. 7, § 40; 9, § 4.
1890, 423, §§ 108, 166.
1893, 417, § 179.
1896, 469, § 9.
1898, 217, § 1; 548, § 241.
20 Pick. 484.
13 Gray, 83.
153 Mass. 108.

SECTION 244. The clerk of each city and town, within ten days, and in Boston, the election commissioners within fifteen days, after the day of any election therein for representative in congress, governor, lieutenant governor, councillor, secretary, treasurer and receiver general, auditor of accounts, attorney general, clerk of courts, register of probate and insolvency, sheriff, district attorney, or senator, or for presidential electors, shall transmit to the secretary of the commonwealth copies of the records of votes for such officers, certified by the aldermen or the selectmen, or by the election commissioners, and attested and sealed by the clerk or by said board. The city or town clerk shall, within ten days after an election for county treasurer or register of deeds, transmit to the county commissioners, and within ten days after an election therein for county commissioners or associate commissioners, transmit to the clerk of the courts the records of votes for such officers, certified, attested and sealed as aforesaid. In the city of Boston the records of the votes cast for register of deeds shall be transmitted by the election commissioners to the aldermen, and the records of the votes cast in the towns of Revere and Winthrop for county commissioner and associate commissioners shall be transmitted to the clerk of the courts for the county of Middlesex. Such copies shall be transmitted in envelopes, upon which shall be stated the offices for which and the districts in which the votes were cast.

Proceedings when copy is received unsealed.
1852, 209, § 2.
G. S. 7, § 19.
P. S. 7, § 42.

SECTION 245. If any such copy transmitted to the secretary of the commonwealth is not sealed as required by law, he shall forthwith give notice thereof to the officers who transmitted the same; and thereupon another copy shall be made, attested, certified, sealed

and transmitted to the secretary. If the second copy is received by him before determination of the persons appearing to be elected and the original appears to be in substantial conformity therewith, the original copy shall not be rejected.

1890, 423, § 111. 1893, 417, § 180. 1898, 548, § 242.

SECTION 246. The secretary of the commonwealth shall cause the date of the receipt of each copy of the records of votes to be indorsed on the envelope containing it; and if received unsealed, a memorandum thereof shall be made on the copy.

Memorandum of date of receipt of copy of record of votes. 1857, 295, § 2. G. S. 7, § 21. P. S. 7, § 44.

1890, 423, § 113. 1893, 417, § 181. 1898, 548, § 243.

SECTION 247. The secretary of the commonwealth shall lay before the governor and council the copies of the records of votes cast with their seals unbroken. The governor with at least five councillors shall, as soon as may be, open and examine all such copies and determine who are elected to the several offices. Upon such determination, the secretary, upon application, shall furnish to newspapers an abstract of the records of the votes examined.

Examination by governor and council. Const., pt. 2, c. 1, § 2, art. 3. Amend. const., arts. 16, 17, 19. R. S. 5, § 22; 6, § 5. 1856, 173, §§ 4, 10.

G. S. 7, § 22. P. S. 7, § 45. 1882, 28, § 3. 1890, 423, §§ 114, 115. 1893, 417, § 182. 1898, 548, § 244.

SECTION 248. The governor shall, in the presence of at least five councillors, certify to the results of the examination of the copies of the records of the votes for governor and lieutenant governor, for councillors, for secretary, treasurer and receiver general, auditor of accounts, and attorney general, and for senators and shall issue his summons to such persons as appear to be chosen to said offices. The governor shall issue certificates of election to such persons as appear to be chosen to the offices of representative in congress, clerk of the courts, register of probate and insolvency, sheriff and district attorney, which shall be countersigned and transmitted by the secretary.

Certificate of examination, etc., by the governor. Amend. const., arts. 16, 17. 1857, 295, § 3. G. S. 7, § 23. P. S. 7, § 46. 1890, 423, §§ 114, 116. 1893, 417, § 183. 1898, 548, § 245.

SECTION 249. After such certification, such copies shall be replaced in their respective envelopes and delivered with the certificate of examination to the secretary, who shall on the first Wednesday in January lay the same, with schedules showing the number of ballots cast for each person voted for, before the senate and house of representatives.

Except for the above purposes, all such copies, both original and corrected, transmitted to the secretary, shall remain on file in his office and be there open to the inspection of any interested person.

Certificates of election. Amend. const., art. 16. 1857, 295, § 4. 1859, 27. G. S. 7, § 24. P. S. 7, § 47. 1882, 28, § 3. 1890, 423, §§ 115, 117. 1893, 417, § 184. 1898, 548, § 246.

SECTION 250. The copies of the records of votes for presidential electors shall, in any event, within ten days after they have been transmitted to the secretary of the commonwealth be opened and examined by the governor and council, who shall thereafter declare, by proclamation printed in at least one newspaper in each county, the names of the persons who have received at least one fifth of the entire number of votes cast for electors, and the number of votes received by each such person. The several persons, to the number of electors required to be chosen, who have received the highest number of votes so ascertained, unless notice of a contest has been received by the governor, shall, at the expiration of

Presidential electors, examination of returns of votes. 1851, 40, § 2. G. S. 9, § 13. P. S. 9, § 13. 1888, 382, § 1. 1890, 423, § 173. 1893, 417, § 185. 1898, 548, § 247.

fourteen days from the date of such proclamation, be deemed to be elected; and the governor shall thereupon issue a certificate of election to every such person.

Presidential electors, petition to supreme judicial court for declaration of election as elector; proceedings.
1888, 382, §§ 4-6.
1890, 423, §§ 178-180.
1893, 417, §§ 186, 187.
1898, 548, § 248.

SECTION 251. Any person who appears, by the proclamation of the governor, to have received not less than one-fifth of the entire number of votes cast for electors, may, if the election is contested, apply by petition to the supreme judicial court for the county of Suffolk, for a declaration of his election as an elector. Such petition shall set forth the name of every person whose election is contested and the ground for the contest shall be filed within seven days after the date of such proclamation and shall not thereafter be amended. Before any proceedings thereon, the petitioner shall recognize to the commonwealth, in such sum and with such sureties as the court shall order, to pay all costs incurred in the prosecution of his petition if he shall not prevail. If the petitioner prevails, the costs shall be paid by the commonwealth. The court shall fix a day for a hearing by the full court, which shall be not less than three nor more than seven days after the date of the filing of the petition, and shall order notice of the hearing to be given, with a statement of the substance of the petition in such manner as it may direct, to the governor and to every person whose election is contested. The court shall also order such notice to be published in at least one newspaper designated by it in each county.

— appearance of petitioner and contestant.
1888, 382, §§ 7-9.
1890, 423, §§ 181-183.
1893, 417, § 187.
1898, 548, § 249.

SECTION 252. The petitioner and the contestant may appear and produce evidence at the hearing, and no person other than the petitioner or a contestant shall be made a party to the proceedings on such petition, or be heard thereon. If more than one petition is pending, or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together and shall apportion the costs between them, and shall finally determine all questions of law and fact. No person shall be excused from testifying or producing papers or documents therein on the ground that his testimony or the production of the papers or documents will tend to criminate him; but no person so testifying shall be liable to any suit or prosecution, civil or criminal, for any matter or cause in respect of which he shall be so examined or to which his testimony shall relate, except to a prosecution for perjury committed in such testimony. The court shall forthwith certify its decision to the governor, who shall thereupon issue certificates of election in accordance therewith. If the petitioner does not prosecute his petition it shall be dismissed and notice thereof given to the governor, who shall issue certificates of election to the persons entitled thereto.

— testimony of witnesses compulsory.

— court to certify decision to governor.
1888, 382, § 10.
1890, 423, § 184.
1893, 417, § 188.

Returns of votes, etc.
G. S. 7, § 24.
1880, 139, § 2.
P. S. 7, § 50.
1884, 299, § 34.
1890, 423, § 121.
1893, 417, § 191.
1898, 548, § 250.
2 Gray, 370.

SECTION 253. The county commissioners to whom the copies of the records of votes for county treasurer and register of deeds have been transmitted shall, on the first Wednesday of the month following the election, examine such copies, determine what persons appear to be elected, issue certificates of election to them and give notice to the secretary of the commonwealth of the name, residence and term of office of every person elected.

In the county of Suffolk, the election commissioners of Boston shall, within ten days after the election of register of deeds, in like

manner examine the copies of the records of votes, determine who appears to be elected, issue a certificate and give notice as above provided.

Board of examiners, compensation, duties. 1835, 152, § 1. R. S. 14, §§ 17, 18, 28, 40. 1855, 3. G. S. 7, § 25; 17, § 49. P. S. 7, § 48; 23, §§ 31, 33. 1890, 423, §§ 119, 120. 1893, 417, § 192. 1898, 548, § 251. 20 Pick. 484. 13 Gray, 83. 126 Mass. 282. 153 Mass. 108, 109.

SECTION 254. In each county except Suffolk and Nantucket, the judge and register of the probate court and the clerk of the courts shall be a board of examiners; and if two of said offices are held by the same person in any county, the sheriff shall be a member of the board. The members of said board shall each be paid at the rate of three dollars a day for every day employed in the performance of their duties and ten cents a mile for travel to and from the place of their meeting; and their accounts shall be audited and settled by the county treasurer. Said board shall meet on the first Wednesday of the month following an election for county commissioner or associate commissioners and shall examine such copies, determine what persons appear to be elected, issue certificates of election to them and give notice to the secretary of the commonwealth of the name, residence and term of office of every person so elected, and shall, within three days thereafter deposit said copies in the office of the clerk of the courts.

New return if copy of record of votes is incomplete. 1882, 28, § 1. 1884, 299, § 35. 1885, 108, 229. 1890, 423, § 122. 1893, 417, § 193. 1898, 548, § 252

SECTION 255. If it shall appear to the governor and council, to the board of examiners, or to the county commissioners, that any such copy is incomplete or erroneous, they may order a new copy of the records to be made and transmitted to them. Such new copy shall be transmitted by the city or town clerk within seven days thereafter, and if found to be correct and in conformity to the requirements of law, shall have the same force as a first copy.

Election, record and examination in representative district of one city or town. 1890, 423, § 153. 1893, 417, § 194. 1898, 548, § 253.

SECTION 256. If a district for the election of representatives in the general court is composed of one city or town, or one or more wards of a city, the board of aldermen or the selectmen shall forthwith examine the records of the votes and determine who appear to be elected. The city or town clerk shall record the names of all persons for whom votes for representative were cast, and the number of votes for each.

— of two or more towns. 1874, 376, § 25. P. S. 8, § 8. 1890, 423, §§ 149, 151, 152. 1893, 417, § 195. 1898, 548, § 254.

SECTION 257. In other representative districts, the election officers in every voting precinct, and the selectmen and town clerk of each town therein not divided into voting precincts, shall, as soon as the vote for representatives has been recorded, cause a complete copy of such record to be made, and shall certify, seal and deliver it to the city or town clerk.

City and town clerks to determine election. 1874, 376, §§ 10, 28. P. S. 8, §§ 10, 12. 1886, 262, § 5.

The city and town clerks in such districts shall meet at the place designated at noon on the tenth day following the day of the election; but on the fourth day following the day of an election to fill a vacancy. They shall examine the copies of the records of votes of every such voting precinct and town, and determine who appear to be elected to the office of representative. They shall, in words at length, make and certify a schedule of the names of all persons for whom votes for representative were cast in the district and the number of votes for each, and the clerk of each city and town shall record such schedule within four days after the day of the meeting.

Designation of place of meeting. Amend. const., art. 21. 1874, 376, § 26. P. S. 8, § 9. 1890, 423, §§ 149, 150. 1893, 417, § 196. 1897, 475, § 1. 1898, 548, § 255.

SECTION 258. If a representative district is included within the provisions of the preceding section, the officers authorized to divide the county into representative districts shall, in making such division, designate a place in each such district or adjacent thereto at which the clerks shall meet to determine the result of the election. Such place of meeting may be changed on petition of two of such clerks after a hearing; but not oftener than once in two years. Notice of such designation and of every change thereof shall be given by the said officers having such authority to the secretary of the commonwealth, and to every city and town clerk in the district.

Correction of errors in returns. P. S. 8, § 10. 1890, 423, § 151. 1893, 417, § 197. 1898, 548, § 256.

SECTION 259. If an error appears in the copies of the records of votes for a representative, the city and town clerks shall forthwith give notice thereof to the election officers, who shall thereupon make an additional record under oath and transmit a copy thereof to said clerks. Such additional copy shall be examined by them if received within two days from the time appointed for their meeting; and for such purpose their meeting may be adjourned for not more than two days.

Certificate of election. 1874, 376, §§ 29-31. P. S. 8, §§ 13-15. 1885, 107. 1890, 423, §§ 153, 154, 156, 159. 1893, 417, § 198. 1898, 548, § 257.

SECTION 260. The board of aldermen, the selectmen, or the city or town clerks acting in a representative district shall make duplicate certificates of election of the persons appearing to be elected and shall, within fifteen days after the day of the election, transmit one certificate to the secretary of the commonwealth, and shall transmit the other certificate, by a constable or other officer, to the person elected. Such certificates of election shall be in the following form: —

Commonwealth of Massachusetts, county of . At a meeting of the qualified voters of Representative District Number , held on the day of November instant, for the choice of Representatives in the General Court to be holden on the first Wednesday of January next , were elected to said office.

Dated at the day of in the year one thousand nine hundred and .

Return of service of certificate of election. 1874, 376, § 34. P. S. 8, § 18.

Sections one to four, inclusive, of chapter three, this section and section two hundred and seventy-six of this chapter shall be printed on every such form. The officer transmitting the certificate shall make a return of his doings.

Return of votes for representative to secretary. 1890, 423, § 155. 1893, 417, § 199. 1898, 548, § 258.

SECTION 261. City and town clerks shall, within fifteen days after an election for representative in the general court, transmit to the secretary of the commonwealth an attested copy of the record of votes cast for all candidates for said office in each voting precinct and in each town not divided into voting precincts.

Record of number of ballots. 1874, 376, § 35. P. S. 8, § 19. 1890, 423, § 160. 1893, 417, § 200.

SECTION 262. The whole number of ballots cast at elections shall be stated in words at length in the records of votes and in all copies thereof, but if not so stated, the record or copy shall not be invalid if the true result can be ascertained therefrom. 1898, 548, § 259.

Violation of requirements not to invali-

SECTION 263. A violation by a public officer or election officer of laws relative to providing ballot boxes, blank forms and other

apparatus or to the care and preservation thereof, or to the manner of canvassing and counting votes, shall not invalidate any record or copy of a record or certificate made by a city, precinct or town clerk, or affect the title of a person declared to be elected to office.

date title of person elected. 1891, 328, § 6. 1893, 417, § 201. 1898, 548, § 260.

SECTION 264. The city or town clerk shall, within fifteen days after an election of state, city or town officers, certify to the secretary of the commonwealth the total number of names of male and of female voters checked on the voting list at such election in each voting precinct or town. 1898, 548, § 261.

Return of number of names checked on voting lists to secretary. 1890, 223, § 2; 423, § 109. 1893, 417, § 203.

SECTION 265. The secretary of the commonwealth shall, before the first day of February, report to the general court the number of assessed polls, the number of registered male and female voters at the date of the preceding annual state election and city or town election, and the total number of persons, male and female, who voted at each such election in every city and town, and in every voting precinct therein, and the number of votes received by each candidate for a state office, arranged by cities, towns and districts, and a concise statement of other matters relating to elections, with such suggestions as he may deem advisable.

Report to general court of number of assessed polls, registered voters, etc. 1890, 223, § 3; 423, § 118. 1891, 329, § 4. 1893, 417, § 204. 1894, 200. 1898, 548, § 262.

RECOUNTS OF VOTES.

SECTION 266. If a person who has received votes for any office at an election shall, within thirty days thereafter, himself or by his agent serve upon a city or town clerk a written claim to such office or a declaration of an intention to contest the election of any other person, the clerk shall retain the envelopes containing the ballots for such office until such claim is withdrawn or the contest is determined. The envelopes and ballots shall be subject to the order of the body to which such person claims to be elected, or of the officers required by law finally to examine the records and to issue certificates of election to such office, or of any court having jurisdiction thereof. Such body or officers may require the clerk to produce such envelopes and ballots, and may recount the ballots and amend any record or copy thereof in relation to such office.

Contested election. 1876, 188, § 2. P. S. 7, § 35. 1884, 299, § 29. 1890, 423, § 103. 1893, 417, § 206. 1898, 548, § 263. 157 Mass. 403.

SECTION 267. If, on or before five o'clock on the third day next succeeding the day of an election in a ward of a city or in a town, ten or more voters of such ward or town shall sign, adding thereto their respective residences on the first day of May of that year, swear to and file with the city or town clerk, or in Boston with the election commissioners, a statement that they have reason to believe and do believe that the records, or copies of records, made by the election officers of certain precincts in such ward or town, or in case of a town not voting by precincts, by the election officers of such town, are erroneous, specifying wherein they deem them to be in error and that they believe a recount of the ballots cast in such precincts or town will affect the election of one or more candidates voted for at such election, specifying the candidates, or will affect the decision of a question voted upon at such election, specifying the question, the city or town clerk shall forthwith transmit such statement and the envelopes containing the bal-

Recount of ballots. 1876, 188, § 4. 1883, 42. P. S. 7, § 36. 1884, 299, §§ 30, 31. 1886, 262, §§ 1-3. 1890, 423, §§ 104-106, 226. 1892, 224. 1893, 417, §§ 207-212. 1894, 132, § 2; 385, §§ 1, 2. 1895, 89; 299, §§ 1, 2, 4-7. 1898, 548, § 264. 136 Mass. 585. 157 Mass. 403.

lots, sealed, to the registrars of voters, who shall, without unnecessary delay, open the envelopes, recount the ballots and determine the questions raised; but upon a recount of votes for town officers in a town in which the selectmen are members of the board of registrars of voters, the recount shall be made by the moderator, who shall have all the powers and perform all the duties conferred or imposed by this section upon registrars of voters.

The registrars of voters, or in Boston the election commissioners, shall, before proceeding to recount the ballots, give notice in writing to the several candidates interested in such recount and liable to be affected thereby, or to such person as shall be designated by the petitioners for a recount of ballots cast upon questions submitted to the voters, of the time and place of making the recount, and each such candidate or person representing petitioners may appear and be present during such recount, either in person or by an agent appointed by him in writing. In the city of Boston, the chairman of the city committee representing the largest political party and the chairman of the city committee representing the second largest political party may in writing designate two persons, or such further number as the election commissioners may allow, to be present and witness the count, and said board shall allow each candidate whose election is in question, or his representative, to be present and may allow representatives of other political parties and other persons to be present and witness the recount.

All recounts shall be upon the questions designated in the statements filed, and no other count shall be made, or allowed to be made, or other information taken, or allowed to be taken, from the ballots on such recount.

The registrars of voters shall, when the recount is complete, enclose all the ballots in their proper envelopes, seal each envelope with a seal provided for the purpose, and certify upon each envelope that the same has been opened and again sealed in conformity to law; and shall likewise make and sign a statement of their determination of the questions raised. The envelopes, with such statement, shall be returned to the city or town clerk, and he shall alter and amend such records as have been found to be erroneous in accordance with such determination; and the records so amended shall stand as the true records of the election. Such amended records of votes cast at a state election shall be made and transmitted as required by law in the case of copies of original records. If, in case of a recount of votes for town officers, it shall appear that a person was elected other than the person declared to have been elected, the board of registrars of voters shall forthwith make and sign a certificate of such fact, stating therein the number of votes cast, as determined by the recount, for each candidate for the office the election to which is disputed, and shall file the same with the town clerk. The town clerk shall record the certificate and shall, within twenty-four hours after such filing, cause a copy of such certificate, attested by him, to be delivered to or left at the residence of the person so declared to have been elected, and to the person who by such certificate appears to be elected.

Boards of registrars of voters may employ such clerical assistance as they may deem necessary to enable them to carry out the provisions of this section.

SECTION 268. No officer recounting ballots shall, except as required by law, make any statement or give any information relative to a ballot cast by a challenged voter. 1893, 417, § 213. 1898, 548, § 265.

Information relative to challenged votes. 1892, 332, § 1.

SECTION 269. The board of aldermen shall not declare the result of an election for state or city officers or of a vote upon any question submitted to the voters until the time for filing a petition for a recount of ballots has expired, or, if such petition has been filed, until the ballots have been recounted and the returns amended, notwithstanding any special act relating to such city. After the ballots have been recounted and the records amended, said board shall forthwith declare the result of the election, and the city clerk shall thereupon issue certificates of their election to the persons elected. No person elected to a city office shall act in an official capacity by virtue of such election before such certificate has been issued.

Time for declaring result of elections in cities. 1876, 188, § 5. P. S. 7, § 38. 1884, 299, § 32. 1885, 159. 1888, 164. 1890, 423, § 107. 1893, 417, § 214. 1898, 548, § 266.

VOTING MACHINES AND APPARATUS.

SECTION 270. The secretary of the commonwealth, the treasurer and receiver general and the auditor of accounts shall at such times, under such conditions, and after such public notice as they shall determine, examine voting and counting machines and apparatus; and they shall certify their approval of such machines as, in their judgment, furnish convenient, simple and satisfactory means of voting and of ascertaining the true result thereof with facility and accuracy, special regard being given to the prevention and detection of double voting; but no machine shall be approved which does not secure to the voter as much secrecy in voting as is afforded by the use of the official ballot. No machine except such as is approved in accordance with the provisions of this section shall be used at any election or caucus in this commonwealth; nor shall any such machines be used except in accordance with the provisions of this and the three following sections.

Voting machines; examination and approval of. 1898, 378, §§ 1, 2; 548, § 267.

SECTION 271. A city or town may, at a meeting held not less than ten days before the annual city election in a city and before the annual town meeting in a town, determine upon and purchase one or more voting and counting machines, approved as provided in the preceding section, and order the use thereof at elections of state, city or town officers in said city or town; and thereafter at all elections of state, city or town officers in said city or town, until otherwise ordered by the aldermen in a city and the selectmen in a town, said machines shall be used for the purpose of voting for the officers to be elected at such elections and for taking the vote upon the question of granting licenses for the sale of intoxicating liquors and upon other questions submitted to the voters, and shall also be used at caucuses if in a town or in a ward of a city, fifty voters, members of the political party whose caucus is to be held, sign and file such request with the city or town clerk. In Boston, the power to determine upon, purchase and order the use of voting and counting machines shall be vested in a board consisting of the election commissioners and the mayor of the city; and the expense so incurred shall be deemed an expense of the election department of said city; and the machines so purchased shall be used at such

— use of. 1893, 465, § 1. 1896, 498, § 1. 1898, 378; 548, § 268. 1901, 531.

elections and caucuses in that city as the election commissioners may from time to time determine.

Bond from vendors.
1898, 378, § 4; 548, § 269.

SECTION 272. When voting and counting machines are purchased and approved the persons of whom they are purchased shall give to the secretary of the commonwealth a bond, with sufficient sureties, to keep them in good working order for two years, at their own expense.

Regulations as to use of machines.
1898, 378, § 5; 548, § 270.

SECTION 273. The secretary of the commonwealth, the treasurer and receiver general and the auditor of accounts shall make regulations for the use of the machines approved by them, and prepare and furnish suitable instructions for the voters in cities or in towns in which such machines are used.

PROCEEDINGS IN CASES OF FAILURE TO ELECT, AND VACANCIES IN STATE OFFICES.

Presidential electors, failure to elect a majority.
1851, 40, § 3.
G. S. 9, § 14.
P. S. 9, § 14.
1890, 423, §§ 174, 175.
1893, 417, § 215.

SECTION 274. If, upon examination of the copies of the records of votes for presidential electors, it appears that a majority of the whole number of electors has not been chosen, the governor shall forthwith, by proclamation, call together the general court; and the senators and representatives assembled in joint convention shall by ballot choose electors to complete the full number.

1898, 548, § 271. 146 U. S. 1.

— proceedings upon a vacancy or absence.
1832, 169, § 4.
R. S. 6, § 21.
G. S. 9, § 15.
P. S. 9, § 15.

If the whole number of electors has not been chosen when the electors meet on the second Monday in January, or if an elector has died or is then absent, the electors present shall forthwith choose electors from the citizens of the commonwealth to complete the full number.

Representative in congress, failure to elect.
1833, 68, § 4.
R. S. 6, § 6.
1851, 40, § 1.
G. S. 9, § 5.
P. S. 9, §§ 5, 6.
1890, 423, §§ 167, 168.

SECTION 275. Upon a failure to choose a representative in congress or upon a vacancy in said office, the governor shall cause precepts to be issued to the aldermen in every city and the selectmen in every town in the district, directing them to call meetings of the voters on the day appointed therein for the election of such representative.

1893, 417, § 216. 1898, 548, § 272. [1 Op. A. G. 242.]

Representative in general court, failure to elect.
Amend. const., art. 15.
1874, 376, § 32.
P. S. 8, § 16.
1890, 423, § 157.
1893, 417, § 217.
1898, 548, § 273.

SECTION 276. Upon a failure to choose a representative in the general court at the annual state election, a certificate thereof shall be transmitted forthwith to the secretary of the commonwealth by the officers required to transmit certificates of election, and another election to fill the vacancy for such representative shall be held on the fourth Monday of the same month of November.

— vacancy.
1874, 376, § 33.
P. S. 8, § 17.
1890, 423, § 158.

Upon a vacancy in the office of representative in the general court or upon the failure to elect on the fourth Monday of November, the speaker of the house of representatives shall issue precepts to the board of aldermen of each city and the selectmen of each town comprising the district or any part thereof, appointing such time as the house of representatives may order for an election to fill such vacancy. Upon the receipt of such precepts, the aldermen or the selectmen shall call meetings of the qualified voters in the district, which shall be held in accordance with the precepts.

SECTION 277. Upon a failure to choose a district attorney, clerk of the courts, register of probate and insolvency or sheriff, the governor shall cause precepts to be issued to the proper officers, directing them to call meetings of the voters on the day appointed therein, for the election of such officer. 1898, 548, § 274.

District and county officers, failure to elect. 1856, 173, § 4. 1858, 93, § 12. G. S. 10, § 10. P. S. 10, § 10. 1890, 423, § 197. 1893, 417, § 218.

Upon a vacancy by removal or otherwise in any of the above-named offices, he shall in like manner cause precepts to be issued for an election to fill such vacancy at the next annual state election for which precepts can be seasonably issued.

— vacancy, election. 1856, 173, §§ 8, 9. G. S. 10, § 13. P. S. 10, § 13. 1890, 423, § 200.

Upon a vacancy in the office of district attorney, register of probate and insolvency or sheriff, the governor with the advice and consent of the council may appoint some person thereto until a district attorney, register of probate and insolvency or sheriff is elected and qualified. Upon a vacancy in the office of clerk of the courts in any county, or of the clerk of the supreme judicial court in the county of Suffolk, the justices of said court may appoint a clerk who shall hold the office until a clerk is elected and qualified.

— vacancy, appointment. R. S. 14, § 56. 1856, 173, § 8. G. S. 17, § 52. P. S. 10, § 18; 158, § 18; 159, § 7. 1890, 423, § 205.

Upon a vacancy in the office of a clerk of the superior court in the county of Suffolk, the justices of said court may appoint a clerk.

SECTION 278. Upon a failure to choose a county treasurer or a register of deeds for a county or district, except the counties of Suffolk and Nantucket, the county commissioners shall forthwith issue precepts to the board of aldermen of each city and the selectmen of each town in such county or district, directing them to call meetings of the voters for the election of such officer on a day appointed therein.

County treasurer, register of deeds, failure to elect. R. S. 14, § 107. 1856, 118. G. S. 10, § 12. P. S. 10, § 12. 1890, 423, § 199. 1893, 417, § 219. 1898, 548, § 275.

Upon a vacancy by removal or otherwise in the office of county treasurer or of register of deeds in a county or district, except the counties of Suffolk and Nantucket, the county commissioners shall in like manner issue precepts for an election to fill such vacancy at the next annual state election for which precepts can be seasonably issued, and may appoint some person to fill such office until a person is elected thereto and qualified.

— vacancy, election. R. S. 14, § 107. G. S. 10, § 15. P. S. 10, § 15. 1890, 423, § 202.

— vacancy, appointment. 1785, 76, § 1. 1825, 145, § 1. R. S. 14, §§ 46, 106.

G. S. 17, §§ 38, 87. P. S. 10, §§ 17, 19. 1890, 423, §§ 204, 206.

Upon a failure to choose a register of deeds in the county of Suffolk, or upon a vacancy in that office, the board of aldermen of the city of Boston shall call meetings to elect a register of deeds or to fill such vacancy, as is above provided for an election in other counties; and, upon a vacancy in that office in said county of Suffolk, the superior court shall appoint some person to the office until a person is elected thereto and qualified.

Register of deeds in Suffolk county, failure to elect, vacancy.

Upon a failure to choose a register of deeds in the county of Nantucket, or upon a vacancy in that office, the selectmen of the town of Nantucket shall call a meeting to elect a register of deeds as is above provided for an election in other counties, and may appoint some person to the office until a person is elected thereto and qualified.

— Nantucket, failure to elect, vacancy.

SECTION 279. Upon a failure to choose a county commissioner or associate commissioner, the board of examiners shall forthwith issue precepts to the board of aldermen of each city and to the selectmen of each town in such county, directing them to call meetings of the voters to elect such officer on a day appointed therein. In

County or associate commissioner, failure to elect. 1835, 152, § 3. R. S. 14, §§ 19, 20. G. S. 10, § 11. 1872, 87, § 3.

P. S. 10, § 11.
1890, 423, § 198.
1893, 417, § 220.
1898, 548, § 276.

the county of Middlesex, such precept shall also be issued to the board of aldermen of the city of Chelsea and the selectmen of the towns of Revere and Winthrop.

County or associate commissioner, vacancy, election.
1835, 152, § 4.
R. S. 14, § 22.
1850, 299, § 2.
1852, 53.
G. S. 10, § 14.
1872, 87, § 3.
P. S. 10, § 14.
1890, 423, § 201.
1892, 115, §§ 1, 2.

Upon a vacancy by removal or otherwise in the office of county commissioner or associate commissioner, the board of examiners shall in like manner issue precepts for an election to fill such vacancy at the next annual state election for which precepts can be seasonably issued, except that no such election shall be held unless the term of office of the commissioner whose office is so vacant extends beyond the first Wednesday of January next succeeding the day of such election. 1893, 39, §§ 1, 2.

—vacancy, appointment.

Upon a vacancy in said offices, the county commissioners or the two remaining county commissioners, as the case may be, and the clerk of the courts for the county, or a majority of them, may appoint some person to fill such office until a person is duly elected to the office and qualified.

Special election not to be held, when.
1893, 417, §§ 218–220.
1898, 548, § 277.

SECTION 280. If there is a vacancy in the office of district attorney, clerk of the courts, register of probate and insolvency, sheriff, county treasurer, register of deeds, county commissioner or associate commissioner, the term of which expires on the first Wednesday of January following the next annual state election for which precepts can be seasonably issued, no precepts shall be issued or election held to fill such vacancy.

Secretary of commonwealth to be notified of vacancy in county offices.
1890, 423, §§ 120, 121, 207.
1893, 417, § 221.
1898, 548, § 278.

SECTION 281. The county commissioners in each county shall forthwith notify the secretary of the commonwealth of any vacancy in the office of county treasurer or of register of deeds; and the board of examiners shall give like notice to the secretary of any vacancy in the office of county commissioner or associate commissioner, and in each case they shall send to him a copy of the precepts issued by them for an election.

Elections to fill vacancies, proceedings.
P. S. 8, § 17; 9, §§ 5, 6.

SECTION 282. At elections held because of a failure to elect or to fill vacancies, the proceedings shall be the same, so far as applicable, as in elections to the same office at the annual state election.

1890, 423, §§ 158, 167, 168, 198, 199. 1893, 417, § 222. 1898, 548, § 279.

PROCEEDINGS OF PRESIDENTIAL ELECTORS.

Presidential electors, meeting, organization.
U. S. const. amend., 12.
U. S. Rev. Sts., §§ 133, 135.
U. S. Sts., Feb. 3, 1887, c. 90.
1832, 169, § 4.
R. S. 6, §§ 21, 22.
G. S. 9, §§ 15, 16.
P. S. 9, §§ 15, 16.
1888, 382, §§ 2, 3.
1890, 423, §§ 175, 176.
1893, 417, § 224.
1898, 548, § 280.

SECTION 283. The persons chosen as presidential electors shall meet at the state house on the Saturday preceding the second Monday in January succeeding their election at three o'clock in the afternoon and organize by the choice of a presiding officer and secretary. The secretary of the commonwealth shall call the meeting to order, call the roll of electors, and preside until a presiding officer shall be chosen.

If, on the second Monday in January, the whole number of electors has not been chosen, or if any electors have died or are then absent, the electors present shall forthwith choose electors from the citizens of this commonwealth to complete the full number. They shall thereupon vote by ballot for president and vice president of the United States, one of whom at least shall not be an inhabitant of this commonwealth. They shall name in their ballots the person

voted for as president, and in distinct ballots, the person voted for as vice president. They shall make distinct lists of all persons voted for as president and of all persons voted for as vice president and of the number of votes for each, and shall sign, certify and transmit such lists, sealed, to the seat of government of the United States, directed to the president of the senate; and they shall in all respects proceed conformably to the constitution and laws of the United States. The secretary of the electoral college shall keep a journal of its proceedings and deposit the same in the office of the secretary of the commonwealth, where it shall be recorded and filed.

Presidential electors, proceedings.

SECTION 284. Each elector shall receive from the commonwealth three dollars for each day of attendance, and one dollar for every five miles of travel from his residence to the place of meeting.

—compensation. 1832, 169, § 4. R. S. 6, § 23. G. S. 9, § 17.

P. S. 9, § 17. 1890, 423, § 177. 1893, 417, § 225. 1898, 548, § 281.

CORRUPT PRACTICES.

SECTION 285. The term "political committee", under the provisions of this chapter relative to corrupt practices, shall apply to every committee or combination of three or more persons who shall aid or promote the success or defeat of a political party or principle in a public election or shall aid or take part in the nomination, election or defeat of a candidate for public office.

"Political committee" defined. 1892, 416, § 6. 1893, 417, § 231. 1898, 548, § 287.

No person shall, in order to aid or promote his own nomination as a candidate for public office, by caucus, convention or nomination paper, directly or indirectly, himself or through another person, or by a political committee, give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing, except for personal expenses as hereinafter provided.

Payment of money by a candidate for nomination, etc. 1892, 416, § 1. 1893, 417, § 226. 1898, 548, § 282. 165 Mass. 169, 170.

SECTION 286. No person shall, in order to aid or promote his own nomination or election to a public office, directly or indirectly, himself or through another person, promise to appoint, or promise to secure or assist in securing the appointment, nomination or election of another person to a public position or employment or to a position of honor, trust or emolument, except that he may announce or define what is his choice or purpose in relation to an election in which he may be called to take part, if elected.

Candidate not to promise appointments to aid his nomination or election, etc. 1892, 416, § 2. 1893, 417, § 227. 1898, 548, § 283.

SECTION 287. No person shall, in order to aid or promote his own election to a public office, directly or indirectly, himself or through another person, give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing, except for personal expenses or to a political committee as hereinafter provided.

Payment of money by candidate regulated. 1892, 416, § 3. 1893, 417, § 228. 1898, 548, § 284.

SECTION 288. A candidate for nomination or for election to a public office, and any other person, may incur and pay, in connection with such nomination or election, his own personal expenses for travelling and for purposes properly incidental to travelling; for writing, printing and preparing for transmission any letter, circular or other publication not issued at regular intervals, whereby he may

Personal expenses of candidate regulated. 1892, 416, § 4. 1893, 417, § 229. 1898, 548, § 285.

state his position or views upon public or other questions; for stationery and postage, for telegraph, telephone and other public messenger service, and for other petty personal purposes; but all such expenses shall be limited to those which are directly incurred and paid by him. Such personal expenses need not be included in any statement required of him.

Voluntary payment to political committee.
1892, 416, § 5.
1893, 417, § 230.
1898, 548, § 286.

SECTION 289. A person who is nominated as a candidate or voted for with his assent for public office, may make a voluntary payment of money or a voluntary and unconditional promise of payment of money to a political committee for the promotion of the principles of the party which it represents, and for its general purposes.

Treasurer of political committee; duties of.
1892, 416, § 6.
1893, 417, § 231.
1898, 548, § 287.

SECTION 290. Every political committee shall have a treasurer, who is a voter of the commonwealth, and shall cause him to keep detailed accounts of all money or its equivalent, received by or promised to the committee, or by or to any person acting under its authority or in its behalf, and of all expenditures, disbursements and promises of payment or disbursement made by the committee or by any person acting under its authority or in its behalf. No person acting under its authority or behalf shall receive any money or its equivalent, or expend or disburse the same, until the committee has chosen a treasurer.

Agent of committee to account for receipts and disbursements.
1892, 416, § 7.
1893, 417, § 232.
1898, 548, § 288.

SECTION 291. Whoever, acting under the authority or in behalf of a political committee, receives any money or its equivalent, or promise of the same, or expends or incurs any liability to pay the same, shall, on demand, and in any event within fourteen days after such receipt, expenditure, promise or liability, give to the treasurer a detailed account of the same, with all vouchers required by this chapter, which shall be a part of the accounts and files of such treasurer.

Treasurer to file statement, etc.; contents.
1892, 416, § 8.
1893, 417, § 233.
1898, 548, § 289.
1900, 307.

SECTION 292. The treasurer of every political committee which receives, expends or disburses any money or its equivalent, or incurs any liability to pay money in connection with any nomination or election to an amount exceeding twenty dollars, shall, within thirty days after such election, file a statement setting forth all the receipts, expenditures, disbursements and liabilities of the committee and of every officer and other person acting under its authority or in its behalf. It shall include the amount in each case received, the name of the person or committee from whom received, the date of its receipt, the amount of every expenditure or disbursement, the name of the person or committee to whom it was made, and the date thereof; and, unless such expenditure or disbursement was made to another political committee, shall clearly state the purpose of such expenditure or disbursement; also the date and amount of every existing promise or liability, both to and from such committee, remaining unfulfilled and in force when the statement is made, the name of the person or committee to or from whom the unfulfilled promise or liability exists, and a clear statement of the purpose for which the promise or liability was made or incurred. If the aggregate receipts or disbursements of a political committee in connection with any election shall not exceed twenty dollars, the treasurer of

the committee shall, within thirty days after the election, certify that fact under oath to the secretary of the commonwealth.

Other persons subject to requirements. 1892, 416, § 9. 1893, 417, § 234. 1898, 548, § 290.

SECTION 293. Whoever, acting otherwise than under the authority or in behalf of a political committee having a treasurer, receives money or its equivalent, or expends or disburses, or promises to expend or disburse money or its equivalent, to an amount exceeding twenty dollars, to aid or promote the success or defeat of a political party or principle in any election, or to aid or influence the nomination, election or defeat of a candidate for office, shall file in the city or town in which he is a voter, the statement required by the preceding section, and shall be subject to all the duties required by this chapter of a political committee or the treasurer thereof; but no person except a voter of the commonwealth shall receive, expend or disburse any money or its equivalent or promise to expend or disburse any money or its equivalent, for either of the purposes above named, except for personal expenses as is herein provided, or under the authority or in behalf of a political committee.

Payments, etc., of committee to be made in name of payer. 1892, 416, § 10. 1893, 417, § 235. 1898, 548, § 291.

SECTION 294. No person shall, directly or indirectly, himself or through another person, make a payment or promise of payment to a political committee or to any person acting under its authority or in its behalf, in any name except his own; nor shall such committee or person knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any other name than that of the person by whom it is made.

Political committee not to solicit, etc., money from candidate, etc. 1892, 416, § 11. 1893, 417, § 236. 1898, 548, § 292.

SECTION 295. No political committee, and no person acting under its authority or in its behalf, shall demand, solicit, ask or invite, from a person who has been nominated as a candidate for office in an election a payment of money, or promise of payment of money, to be used in such election; and no such candidate shall make any such payment to a political committee or to any person acting under its authority or in its behalf, if such committee or person has demanded, solicited, asked or invited from him any such payment or promise of payment.

Payment by committee, etc., of naturalization fees prohibited. 1893, 376; 417, § 237. 1898, 548, § 293.

SECTION 296. No political committee and no person who is required to file a statement under the preceding eleven sections shall make any payment or promise of payment of money to or in behalf of any person for naturalization fees or for services as counsel or otherwise in assisting any one to obtain naturalization.

Treasurer's statement to be filed with city or town clerk. 1892, 416, §§ 12, 16. 1893, 417, § 238. 1894, 248. 1898, 548, § 294.

SECTION 297. The statement required by section two hundred and ninety-two shall be filed with the clerk of the city or town in which the treasurer is a voter, or if the political committee has headquarters, with the clerk of the city or town in which such headquarters are maintained at the time of the election to which the statement relates. A statement relating to any other than a city or town election, or an election by a city council or by either branch thereof, shall be filed in duplicate, and one copy shall be forthwith forwarded by the city or town clerk to the secretary of the commonwealth. Whoever makes a statement required by the provisions of this chapter shall make oath that it is in all respects correct and true to the best of his knowledge and belief.

Secretary of the commonwealth to inspect statements. 1894, 248, §§ 1, 2. 1895, 242, §§ 1, 2. 1898, 548, § 295.

SECTION 298. The secretary of the commonwealth shall inspect all statements filed with him under the preceding section within sixty days after the same have been filed, and upon discovery that any such statement does not conform to law, or upon complaint in writing of five registered voters that such statement does not conform to law or to the truth or that any person has failed to file a statement required by law, he shall, in writing, notify the delinquent person. Such complaint shall state in detail the grounds of objection, be sworn to by one of the subscribers and be filed with said secretary within sixty days after the election in question or within thirty days after the filing of a statement or amended statement.

Complaint. 1894, 248, § 3. 1895, 242, § 3.

District attorney may institute proceedings in certain cases. 1894, 248, § 4. 1895, 242, § 4. 1898, 548, § 296. 165 Mass. 169.

SECTION 299. Upon the failure to file a statement or amended statement within ten days after receiving notice under the preceding section, the secretary shall notify the proper district attorney, who shall, within two months, begin civil or criminal proceedings in the name of the commonwealth.

Statements relating to municipal elections, etc. 1894, 248, § 5. 1895, 242, § 5. 1898, 548, § 297.

SECTION 300. If such statement relates to city or town elections, or to an election on the part of a city council, or of either branch thereof, the provisions of the preceding sections shall apply to the respective city or town clerks instead of to the secretary of the commonwealth.

Courts to enforce filing of statement. 1892, 416, § 13. 1893, 417, § 239. 1898, 548, § 298. 165 Mass. 169.

SECTION 301. The supreme judicial court or the superior court may compel any person who fails to file a statement as above required, or who files a statement which does not conform to the foregoing requirements in respect to its truth, sufficiency in detail, or otherwise, to file a sufficient statement, upon the application of the district attorney or petition of any candidate voted for, or of any five persons qualified to vote at the election on account of which the expenditures, or any part thereof, were made or are alleged to have been made. Such petition shall be filed within sixty days after such election, if the statement was filed within the thirty days required, but a petition may be filed within thirty days of any payment not included in the statement so filed. Proceedings under this section shall be advanced upon the request of either party for speedy trial. No petition brought under this chapter shall be discontinued without the consent of the attorney general.

Witness not liable criminally, except for perjury. 1892, 416, § 14. 1893, 417, § 240. 1898, 548, § 299.

SECTION 302. No person who is called to testify in any proceedings under the preceding section shall be liable to criminal prosecution under this chapter or otherwise for any matters or causes in respect of which he shall be examined or to which his testimony shall relate, except to prosecution for perjury committed in such testimony.

Statements to be preserved and open to inspection. 1892, 416, § 17.

SECTION 303. All statements shall be preserved for fifteen months after the election to which they relate, and shall, under reasonable regulations, be open to public inspection. 1893, 417, § 242. 1898, 548, § 300.

Vouchers required with accounts. 1892, 416, § 20. 1893, 417, § 244. 1898, 548, § 301.

SECTION 304. Every payment required to be accounted for shall, unless the total expense payable to any one person is less than five dollars, be vouched for by a receipted bill stating the particulars

of expense, and every voucher, receipt or account hereby required shall be preserved for six months after the election to which it relates.

SECTION 305. The secretary of the commonwealth shall provide every city and town, at the expense of the commonwealth, with blank forms, approved by the secretary of the commonwealth, the treasurer and receiver general, and the auditor of accounts, suitable for the statements above required.

Secretary of the commonwealth to furnish blanks for statements. 1892, 416, § 18. 1893, 417, § 245. 1898, 548, § 302.

SECTION 306. The provisions of this chapter relative to corrupt practices shall apply to all public elections, except of town officers, and to elections by the general court and by city councils, and by either branch thereof, to the nomination by caucuses and conventions and nomination papers of candidates to be voted for at such elections. Sections two hundred and eighty-five, two hundred and eighty-seven and two hundred and ninety-four shall not apply to the proprietors and publishers of publications issued at regular intervals, in respect to the ordinary conduct of their business.

Nominations and elections to which provisions apply. 1892, 416, § 21. 1893, 417, § 246. 1898, 548, § 303.

INQUESTS IN ELECTION CASES.

SECTION 307. Upon a complaint subscribed and sworn to by any person before a police, district or municipal court or a trial justice, alleging that reasonable grounds exist for believing that any law relating to the assessment, qualification or registration of voters, or to voting lists or ballots, or to caucuses, conventions and elections, or to any matters pertaining thereto, has been violated, such court or justice may at once hold an inquest to inquire into such alleged violation of the law.

Inquests upon violations of election laws. 1895, 355, § 1. 1898, 548, § 304.

SECTION 308. The court or trial justice may exclude all persons whose presence is not necessary at such inquest; and may also direct the witnesses to be kept so separated that they cannot converse with each other until they have been examined. The attorney general, the district attorney, or some person designated by either, shall attend the inquest and examine the witnesses.

—may be private, etc. 1895, 355, § 2. 1898, 548, § 305.

SECTION 309. Such court, justice or attorney may issue subpœnas for witnesses, who shall be allowed the same fees, whose attendance may be enforced in the same manner, and who shall be subject to the same penalties, as if served with a subpœna in behalf of the commonwealth in a criminal prosecution before such court or trial justice.

Witnesses, attendance, fees, etc. 1895, 355, § 3. 1898, 548, § 306.

SECTION 310. Such court or trial justice may employ a stenographer and may have the proceedings reduced to writing; and if he finds that the law has been violated, shall report to the superior court all the material facts and the names of any persons guilty of any such violation.

Employment of stenographer. 1895, 355, § 4. 1898, 548, § 307.

SECTION 311. The court or trial justice may bind over, as in criminal prosecutions, such witnesses as are necessary, or as said attorney may designate, to appear and testify in the superior court.

Witnesses may be bound over to appear, etc. 1895, 355, § 5. 1898, 548, § 308.

Certain persons may be apprehended.
1895, 355, § 6.
1898, 548, § 309.

SECTION 312. If a person charged by the report with the commission of an offence is not in custody, the court or trial justice shall forthwith issue process for his apprehension; but such process may issue before the filing of said report, if otherwise lawful.

Witnesses not excused from giving incriminating testimony.
1895, 355, § 7.
1898, 548, § 310.

SECTION 313. No person shall be excused from testifying or producing any papers in any proceedings under the preceding section on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture, but he shall not be prosecuted or be subjected to a penalty or forfeiture for or on account of any action, matter or thing concerning which he may so testify, except for perjury committed in such testimony.

OFFICERS TO BE ELECTED AT STATE ELECTIONS.

State officers to be elected annually.
Const., pt. 2, c. 1, § 3, arts. 1, 2, 3; c. 2, § 1, arts. 2, 3; c. 2, § 2, art. 1.
Amend. const., arts. 15–17, 21, 22.
G. S. 8, § 1.
P. S. 8, § 1.
1890, 423, § 147.

SECTION 314. At the annual state election there shall be chosen by the voters of the commonwealth, as prescribed by the constitution, a governor, lieutenant governor, secretary, treasurer and receiver general, auditor, and attorney general; by the voters in each councillor district, one councillor; by the voters in each senatorial district, one senator; and by the voters in each representative district, such number of representatives as the district is entitled to elect. 1893, 417, § 247. 1898, 548, § 311.

Presidential electors.
R. S. 6, § 13
G. S. 9, §§ 9, 10.
P. S. 9, §§ 9, 10.
1890, 423, §§ 170, 171.
1893, 417, § 248.

SECTION 315. At the annual state election in each year in which presidential electors are required to be appointed, a number of electors, equal to the whole number of senators and representatives in congress to which the commonwealth is entitled, shall be chosen by the voters of the commonwealth. 1898, 548, § 312.

Representatives in congress.
1833, 68, § 3.
R. S. 6, § 3.
1856, 224.

SECTION 316. At the annual state election in every even numbered year a representative in congress shall be chosen by the voters in each congressional district. G. S. 9, § 3. P. S. 9, § 3. 1890, 423, § 165. 1893, 417, § 249. 1898, 548, § 313. 11 Mass. 424.

District attorneys.
1807, 18.
1832, 130, § 9.
R. S. 13, § 37.
1856, 173, §§ 1, 5.
G. S. 10, § 2.
P. S. 10, § 2.
1890, 423, § 189.

SECTION 317. At the annual state election in the year nineteen hundred and four, and in every third year thereafter, a district attorney shall be chosen by the voters in each of the districts into which the commonwealth is divided for the administration of the criminal law. 1893, 417, § 250. 1898, 548, § 314.

Clerks of the courts.
1853, 176, §§ 2, 6, 7.
1857, 1.
G. S. 10, § 3.
P. S. 10, § 3.
1890, 423, § 190.
1893, 417, § 251.
1898, 548, § 315.

SECTION 318. At the annual state election in the year nineteen hundred and six, and in every fifth year thereafter, a clerk of the supreme judicial court for the county of Suffolk, and two clerks of the superior court, one for civil and one for criminal business, shall be chosen by the voters in said county; and, by the voters in each of the other counties, a clerk of the courts who shall act as clerk of the supreme judicial court, of the superior court and of the county commissioners.

Registers of probate and insolvency.
1858, 93, § 4.
G. S. 10, § 4.

SECTION 319. At the annual state election in the year nineteen hundred and three, and in every fifth year thereafter, a register of probate and insolvency shall be chosen by the voters of each county. P. S. 10, § 4. 1890, 423, § 191. 1893, 417, § 252. 1898, 548, § 316.

SECTION 320. At the annual state election in the year nineteen hundred and three, and in every third year thereafter, a register of deeds shall be chosen by the voters of each district for the registry of deeds, and of each county not divided into districts. G. S. 10, § 9.

Registers of deeds. 1783, 60. R. S. 14, § 101. 1837, 186. 1855, 79; 92, § 1. 1856, 118.

P. S. 10, § 9. 1890, 423, § 196. 1893, 417, § 253. 1898, 548, § 317.

SECTION 321. At the annual state election there shall be chosen by the voters of the county of Middlesex and of the towns of Revere and Winthrop, one county commissioner for said county and towns, and by the voters of each of the other counties, except the counties of Suffolk and Nantucket, one county commissioner for the county.

County commissioners. 1835, 152, §§ 2, 4. R. S. 14, § 16. 1850, 299, § 2. 1852, 53. 1854, 77, § 3. G. S. 10, § 6. 1872, 87, § 3. P. S. 10, § 6.

1890, 423, §§ 193–195. 1893, 417, § 255. 1898, 217, § 2; 548, § 318. 1900, 198. 3 Gray, 126.

At the annual state election in the year nineteen hundred and four, and in every third year thereafter, there shall likewise be chosen by the voters of the county of Middlesex and of the towns of Revere and Winthrop, two associate commissioners for said county and towns, and by the voters of each of the other counties, except the counties of Suffolk and Nantucket, two associate commissioners for the county.

Associate commissioners. 1835, 152, § 4. R. S. 14, § 21. 1850, 299, § 2. 1852, 53. 1854, 77, § 6. G. S. 10, § 7. 1872, 87, § 3. P. S. 10, § 7.

Not more than one of the county commissioners and associate commissioners shall be chosen from the same city or town. If two persons residing in the same city or town shall appear to have been chosen to said offices, the person only who receives the larger number of votes shall be declared elected; but if they shall receive an equal number of votes, no person shall be declared elected. If a person residing in a city or town in which a county commissioner or an associate commissioner who is to remain in office also resides, shall appear to have been chosen, he shall not be declared elected. If the person is not declared elected by reason of the above provisions, the person receiving the next highest number of votes for the office, and who resides in another city or town, shall be declared elected.

Not more than one commissioner from same city or town. R. S. 14, § 23. 1854, 77, § 6. G. S. 10, § 8. 1874, 329, § 1. P. S. 10, § 8.

SECTION 322. At the annual state election in the year nineteen hundred and four, and in every third year thereafter, a sheriff shall be chosen by the voters in each county. 1893, 417, § 256. 1898, 548, § 319.

Sheriffs. 1856, 173, § 1. G. S. 10, § 5. P. S. 10, § 5. 1890, 423, § 192.

SECTION 323. At the annual state election in the year nineteen hundred and three, and in every third year thereafter, a county treasurer shall be chosen by the voters in each county, except the counties of Suffolk and Nantucket.

County treasurers. 1785, 76, § 1. R. S. 14, § 43. 1855, 92, § 1. G. S. 10, § 9. P. S. 10, § 9.

1890, 423, § 196. 1893, 417, § 257. 1898, 548, § 320. 2 Gray, 370.

SECTION 324. At the annual state election in the year nineteen hundred and five, and every tenth year thereafter, the voters of the county of Suffolk shall elect nine commissioners, five of whom shall be residents of and voters in the city of Boston, two shall be residents of and voters in the city of Chelsea, one shall be a resident of and a voter in the town of Revere and one shall be a resident of and a voter in the town of Winthrop. The manner of the election of, and of the returns of votes for, said commissioners shall be the same as in the case of the register of deeds for said county. Said commissioners shall hold office for one year from the first Wednesday of January next after their election. At their first

Election of commissioners to apportion Suffolk county into districts. 1897, 287, § 1. 1898, 548, § 321.

meeting, they shall organize by choosing a chairman, who shall be one of their number, and a clerk. The city of Boston shall provide them with a suitable office and room for hearings and shall allow and pay to them not more than seven hundred dollars for clerk hire, stationery and incidental expenses.

Terms of office.
Amend. const., arts. 19, 36.
P. S. 10, §§ 1-7.
1890, 423, §§ 188-194, 196.
1892, 115, § 3.
1893, 417, § 258.
1898, 548, § 322.

SECTION 325. District attorneys, registers of deeds, county commissioners, associate commissioners, sheriffs and county treasurers shall hold their several offices for terms of three years, and clerks of the courts and registers of probate and insolvency for terms of five years, beginning with the first Wednesday of January in the year succeeding their respective elections and until their successors are chosen and qualified.

Residence of certain officers required.
1898, 548, § 323.

SECTION 326. District attorneys, registers of deeds and county treasurers shall be residents of the counties or districts for which they are chosen.

PROVISIONS APPLICABLE TO TOWN MEETINGS.

Town meetings, when to be held.
1785, 75, § 10.
R. S. 15, §§ 18, 25.
1837, 52.
G. S. 18, § 20.

SECTION 327. The annual meeting of each town shall be held in February, March or April; and other meetings may be held at such times as the selectmen may order. Meetings may be adjourned from time to time, and to any place within the town.

P. S. 27, § 53. 1890, 423, § 209. 1893, 417, § 259. 1898, 548, § 324. 117 Mass. 385.

Meetings to be held pursuant to warrant, etc.
1785, 75, § 5.
R. S. 15, §§ 19-22.
G. S. 18, §§ 21, 22.
P. S. 27, §§ 54, 55.
1890, 423, §§ 210, 211.
1893, 417, § 260.
1898, 548, § 325.
10 Mass. 105.
4 Pick. 258.
13 Pick. 306.
21 Pick. 81.
5 Met. 35.
6 Met. 340, 497.
1 Cush. 496.
11 Cush. 294, 298, 487.
3 Gray, 526.
11 Gray, 340.

SECTION 328. Every town meeting, except as hereinafter provided, shall be called in pursuance of a warrant, under the hands of the selectmen, directed to the constables or to some other persons, who shall forthwith give notice of such meeting in the manner prescribed by the by-laws or, if there are no by-laws, by a vote of the town. The warrant shall state the time and place of the meeting and the subjects to be there acted upon, and the selectmen shall insert in the warrant all subjects the insertion of which shall, in writing, be requested of them by any ten or more voters of the town. No action shall be valid unless the subject-matter thereof is contained in the warrant. Two or more distinct town meetings for distinct purposes may be called by the same warrant.

11 Allen, 89. 99 Mass. 472. 110 Mass. 39. 111 Mass. 368. 117 Mass. 384. 118 Mass. 355. 122 Mass. 291. 131 Mass. 521, 523. 132 Mass. 289, 295. 145 Mass. 50, 53. 165 Mass. 183. 173 Mass. 591.

Call for meeting in case of vacancy in office of selectmen.

SECTION 329. If a majority of the selectmen shall vacate their offices, or if the full number shall fail to be elected or qualified, the selectmen in office may call a town meeting.

1785, 75, § 5. R. S. 15, § 24. G. S. 18, § 24. P. S. 27, § 57. 1890, 423, § 213. 1893, 417, § 261. 1898, 548, § 326.

Justice of peace may call meeting, when.
1785, 75, § 5.
R. S. 15, § 23.
G. S. 18, § 23.
P. S. 27, § 56.
1890, 423, § 212.
1893, 417, § 262.
1898, 548, § 327.

SECTION 330. If the selectmen unreasonably refuse to call a town meeting, a justice of the peace, upon the application of ten or more voters of the town, may call a meeting by a warrant under his hand, stating the subjects to be acted upon, directed to the constables of the town if there are any; otherwise to any of the persons applying therefor, directing them to summon the inhabitants qualified to vote in town affairs, to assemble at the time and place, and for the purposes expressed in the warrant.

SECTION 331. At every town meeting, except for the election of state officers, a moderator shall first be chosen. Until the election of a moderator, the town clerk shall preside, but if he is absent or if there is no town clerk, the chairman of the selectmen or the member longest in continuous service shall preside, but if no selectman is present, the justice of the peace calling such meeting, if the meeting is so called, shall preside. Such presiding officer shall have the powers and perform the duties of a moderator.

126 Mass. 603. 138 Mass. 214, 216.

Moderator, election, etc. 1785, 75, § 6. 1831, 50. R.S. 15, §§ 26, 27. G.S. 18, §§ 25, 26. P.S. 27, §§ 58, 59. 1887, 371, § 1. 1890, 423, §§ 214–216. 1893, 417, § 263. 1898, 548, § 328. 9 Mass. 262. 103 Mass. 543. 111 Mass. 256.

SECTION 332. The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declaration of all votes, and may administer in open meeting the oath of office to any town officer chosen thereat. If a vote so declared is immediately questioned by seven or more of the voters, he shall verify it by polling the voters or by dividing the meeting unless the town has by a previous order or by its by-laws provided another method.

—powers and duties. 1785, 75, § 6. R. S. 15, §§ 28, 32. G. S. 18, § 27. P. S. 27, § 60. 1890, 423, § 217. 1893, 417, § 264. 1898, 548, § 329.

SECTION 333. No person shall address a town meeting without leave of the moderator, and all persons shall at the request of the moderator be silent. If a person, after warning from the moderator, persists in disorderly behavior, the moderator may order him to withdraw from the meeting; and if he does not withdraw, may order a constable or any other person to remove him and confine him in some convenient place until the meeting is adjourned. 1898, 548, § 330.

Speaking in town meeting regulated. 1785, 75, § 6. R. S. 15, §§ 29, 30. G. S. 18, §§ 28, 29. P. S. 27, §§ 61, 62. 1890, 423, §§ 218, 220. 1893, 417, § 265.

ELECTION OF TOWN OFFICERS.

SECTION 334. Every town at its annual meeting shall in every year, except as is otherwise provided in the following section and in sections three hundred and thirty-nine and three hundred and forty-one, choose from the inhabitants thereof the following named town officers, who shall serve during the year: 1877, 186. 1878, 255.

P. S. 27, § 78; 44, § 21. 1886, 150. 1888, 221, § 1. 1893, 304, § 1; 417, § 266. 1894, 16. 1898, 548, § 331. 1899, 330, § 1. 1901, 482. 168 Mass. 562.

Town officers, election of. 1785, 52, § 1; 75, § 2. R. S. 15, § 33; 19, § 16. G. S. 18, § 31. 1871, 158.

A town clerk; —town clerk.

Three, five, seven or nine selectmen; —selectmen.

Three or more assessors; and, if the town so votes, three or more assistant assessors; —assessors. 6 Met. 497.

Three or more overseers of the poor; —overseers of the poor.

A town treasurer, whom the town may at any meeting appoint collector of taxes; —treasurer.

One or more collectors of taxes, if the town so votes; —collector of taxes.

One or more auditors, who shall hold no other town office; —auditor.

One or more surveyors of highways, if the town so votes; 1886, 295, § 1. —highway surveyor.

15 Gray, 486. 115 Mass. 431.

A road commissioner, if the town has provided for such officer; —road commissioner.

A sewer commissioner, if the town has provided for such officer; —sewer commissioner.

1893, 304, § 1.

One or more constables, who shall also be collectors of taxes, unless other persons are specially chosen or appointed as such; —constables and collectors. 7 Gray, 128.

Two or more field drivers; —field drivers.

Two or more fence viewers; and such other town officers as are required by law then to be chosen. —fence viewers.

Tree warden.

A tree warden. 1896, 190, § 1. 1899, 330, § 1.

School committee. 1826, 143, § 5. R. S. 23, § 10. 1857, 270, §§ 1, 2, 4. 1859, 264. G. S. 38, §§ 16, 21. 1874, 389. 1879, 223, § 4. P. S. 44, §§ 21, 26. 1896, 319. 23 Pick. 225. 4 Cush. 599. 5 Cush. 207. 8 Cush. 160. 12 Gray, 61. 10 Allen, 149. 12 Allen, 127. 101 Mass. 143. 105 Mass. 475. 145 Mass. 555. 157 Mass. 561.

The town shall likewise at its annual meeting or at a meeting held in the same month in which the annual meeting occurs, choose members of the school committee, which committee shall consist of any number of persons divisible by three which said town has decided to elect, one-third thereof to be elected annually, and to continue in office three years. If a town fails or neglects to choose such committee, an election at a subsequent meeting shall be valid, and the town may, at its annual meeting, vote to increase or diminish the number of its school committee; and any town in which ballots for town officers are provided at the expense of the town may vote so to change the number of its school committee at a meeting, other than the annual meeting, called for the purpose and held thirty days at least before the annual meeting at which such change is to become operative. Such increase shall be made by adding one or more to each class, to hold office according to the tenure of the class to which they are severally chosen. Such diminution shall be made by choosing, annually, such number as will in three years effect it, and a vote to diminish shall remain in force until the diminution under it is accomplished.

Town officers, women as overseers of the poor, etc.

Women shall be eligible as overseers of the poor and school committee. 1886, 150.

Term of office of town clerk, etc. 1901, 482.

SECTION 335. In towns which vote to accept the provisions of this section or have voted to accept the corresponding provisions of earlier laws, the town clerk may, until such acceptance is revoked at a subsequent meeting, be chosen for a term of three years; and such clerk may also serve as clerk of such officers, boards and departments of the town as the town may determine by a vote taken at said meeting or at a subsequent meeting.

Highway surveyor. 1785, 75, § 2. R. S. 15, § 33. G. S. 18, § 31. P. S. 27, § 78. 1895, 374, § 1. 1898, 548, § 332.

SECTION 336. In towns which vote to accept the provisions of this section or have voted to accept the corresponding provisions of earlier laws, there shall be elected at the annual town meeting in each year, until such acceptance is revoked by the town at an annual meeting, a highway surveyor, who shall hold his office for one year. Upon the election of such surveyor, the office of road commissioner shall terminate.

When vote on acceptance of preceding section to be taken. 1895, 374, § 2. 1898, 548, § 333.

SECTION 337. In towns not providing official ballots, the question of the acceptance or revocation of the acceptance of the preceding section shall be voted upon only at an annual town meeting, and such vote shall take effect forthwith. In other towns, the acceptance or the revocation of the acceptance may be voted upon at any meeting, and the vote shall take effect at the annual meeting held next after the expiration of sixty days from the date of such vote.

Board of health, election, term. 1894, 218; 473, § 1. 1895, 506, §§ 2, 3. 1898, 548, § 334.

SECTION 338. A town may elect a board of health consisting of three persons, who shall serve for terms of one, two and three years respectively, beginning with the day following the meeting at which they are elected, or until their respective successors are chosen and qualified; and thereafter such town shall, at its annual town meeting, choose one member of such board who shall hold office for three years from the day following such meeting and until another

is chosen and qualified in his stead. If no such board is chosen, the selectmen shall act as a board of health. In every town having more than five thousand inhabitants as determined by the latest national or state census at least one member of the board, unless composed of the selectmen, shall be a physician.

Selectmen, assessors, overseers of the poor, election of. 1878, 255, § 4. P. S. 27, §§ 64–69. 1893, 417, §§ 267–269. 1898, 548, § 335.

SECTION 339. A town may, at an annual meeting, or at a meeting held at least thirty days before the annual meeting at which such change is to become operative, vote to elect its selectmen, assessors or overseers of the poor in the following manner: —

If the number fixed by the town is three, it shall, at the annual meeting when such vote is passed or at the next annual meeting, elect one for the term of one year, one for the term of two years and one for the term of three years; if the number is five, it shall elect one for the term of one year, two for terms of two years and two for terms of three years; if the number is seven, it shall elect two for terms of one year, two for terms of two years, and three for terms of three years; if the number is nine, it shall elect three for terms of one year, three for terms of two years and three for terms of three years; and at each annual meeting thereafter, it shall elect one, two or three for the term of three years as the term of office of one, two or three expires.

If the number of assessors is four, the town shall elect two assessors for terms of one year and two assessors for terms of two years; and at each annual meeting thereafter it shall elect two assessors to serve for terms of two years.

— change in number of. 1878, 255. P. S. 27, §§ 66, 68, 73. 1893, 417, § 270. 1898, 548, § 336.

SECTION 340. A town which votes at an annual meeting to increase or diminish the number of its selectmen, assessors or overseers of the poor, may at that meeting or at any annual meeting thereafter, elect one or more such additional officers, or omit to elect one or more such officers, so as to bring the number to the limit fixed by the vote of the town, with terms of office expiring in the manner provided in the preceding section; but one selectman, assessor and overseer of the poor shall be elected annually. A town which has voted to elect said officers as provided in the preceding section, may at any annual meeting rescind such action; but such rescission shall not affect the term of office of any such officer.

Road and sewer commissioners. 1871, 158, § 1. P. S. 27, § 74. 1893, 417, § 271. 1898, 548, § 337.

SECTION 341. A town may vote to elect three road commissioners and three sewer commissioners in the following manner: —

It shall, at the annual meeting when such vote is passed or at the next annual meeting, elect one for the term of one year, one for the term of two years and one for the term of three years; and at each annual meeting thereafter it shall elect one for the term of three years. A town which has voted to elect said officers as herein provided, may at an annual meeting rescind such action; and thereupon the offices of road commissioners or sewer commissioners shall be abolished.

Election of moderator to be by ballot. 1811, 9, § 2. R. S. 15, § 34. G. S. 18, § 32. 1880, 60, § 1.

SECTION 342. The election of a moderator at a meeting for the choice of town officers shall be by ballot and the voting list shall be used thereat. If the number of voters registered for the annual town meeting shall exceed five hundred, no person shall print or

P. S. 27, § 80. 1890, 423, § 216. 1893, 177, § 1; 417, §§ 263, 273. 1898, 548, § 338.

distribute for use at the election of moderator at such meeting any ballots unless they shall be of plain white paper, in weight not less than that of ordinary printing paper, not less than five and one-half nor more than six inches in length, and not less than three and one-half nor more than four inches in width; shall have no printing, engraving, device or mark upon the back thereof, and, if printed, shall be printed in black ink with the name of the candidate in a line parallel with the length of the ballot, and in capital letters not less than one-eighth of an inch nor more than one-quarter of an inch in height. Ballots for moderator, although not in conformity with the above requirements, shall be received and counted.

Town officers, manner of election. 1785, 75, § 2. 1809, 26, § 1. 1811, 9, § 2. R. S. 15, § 34. 1851, 94, § 3. G. S. 18, § 32. P. S. 27, §§ 65, 74, 80, 44, § 21. 1883, 203, § 2. 1889, 191. 1890, 423, § 216. 1893, 304, § 1; 417, § 274. 1898, 548, § 339. 103 Mass. 543. [1 Op. A. G. 617.]

SECTION 343. The election of town clerk, selectmen, assessors, overseers of the poor, town treasurer, auditor, collector of taxes, constables, road commissioners, sewer commissioners, board of health and school committee shall be by ballot; and the election of all other town officers shall be in such manner as the town may determine, unless otherwise provided by law. A town which chooses its assessors or overseers of the poor for one year may, instead of electing such officers, provide by vote that the selectmen shall act also as assessors or as overseers of the poor, or both. Such vote shall, in any town using official ballots, be passed at a meeting held at least thirty days before the annual meeting at which such selectmen are to be chosen.

— when voting list is to be used. 1874, 376, § 23. P. S. 7, § 9. 1890, 423, § 216. 1893, 417, § 275. 1898, 548, § 340. 12 Pick. 485. 103 Mass. 543. 111 Mass. 256.

SECTION 344. The voting list shall be used and the name of every person voting shall be checked thereon in the election of all town officers whose election is by law required to be by ballot, and in voting upon the question of granting licenses for the sale of intoxicating liquors; but in the election of other town officers the meeting shall determine whether the voting list shall be used.

— ballots to be sealed up, indorsed, etc. 1893, 417, § 276. 1898, 548, § 341.

SECTION 345. If the town clerk, selectmen, assessors, treasurer, collector of taxes and school committee are voted for on one ballot, the moderator shall cause all such ballots when canvassed and counted, and record thereof has been made, publicly to be enclosed in envelopes, which shall be sealed and indorsed, and certified in the manner required by section two hundred and thirty-nine.

— oath, term of office, etc. 1785, 75, § 2. R. S. 15, § 33. G. S. 18, § 31. P. S. 27, § 78. 1893, 417, § 277. 1898, 548, § 342.

SECTION 346. A person who is elected town clerk, if present at the meeting, shall forthwith be sworn, either by the moderator or by a justice of the peace, and shall at once enter upon the performance of his duties. Every town officer designated by name in section three hundred and thirty-four, unless other provision is specifically made by law, shall enter upon the performance of his duties on the day after his election or as soon thereafter as he is qualified, and shall hold office during the term fixed by law, which shall begin on the day after the annual meeting, and until another person is chosen and qualified in his stead.

Same subject. 1785, 75, § 2. R. S. 15, § 33. G. S. 18, § 31. P. S. 27, § 79. 1893, 417, § 278. 1898, 548, § 343.

SECTION 347. Town officers designated by name in section three hundred and thirty-four shall, before entering upon their official duties, be sworn to the faithful performance thereof. Such oath may be administered by the moderator in open town meeting, or by

the town clerk. The town clerk shall forthwith, after the election or appointment of town officers required to take an oath of office, make a list of the names of all such officers not sworn by him or by the moderator, and deliver it with his warrant to a constable requiring him within three days to summon each such person to appear and take the oath of office within seven days after the service of such summons upon him; and the constable shall within said seven days make return thereof to the town clerk. Persons so summoned, unless exempt by law from holding the office, shall within said seven days, take the oath of office before the town clerk or before a justice of the peace, and file a certificate thereof with the town clerk.

Town clerk to prepare a list of officers chosen, and cause them to be summoned to qualify. P. S. 27, § 87.

Town officers to take oath within seven days, etc. 1785, 75, § 2. R. S. 15, § 40. G. S. 18, § 40. P. S. 27, § 88. 7 Gray, 131.

SECTION 348. No person shall be required to serve two terms successively in the same town office; and no person shall be required to accept the office of constable who holds a commission as an officer of the United States or of the commonwealth, who is a member of the council, of the general court, a minister of the gospel, an engineman, a member of the fire department, or who has been a constable or collector of taxes in the town within the preceding seven years. No person shall be required to serve in the office of surveyor of highways oftener than once in three years.

Exemption from liability to hold town office. 1785, 75, § 3. 1786, 81, § 1. R. S. 15, §§ 43, 69, 81. G. S. 18, §§ 44, 74. P. S. 27, §§ 94, 126. 1893, 417, § 279. 1898, 548, § 344. 15 Gray, 486. 115 Mass. 431.

SECTION 349. At any meeting for the choice of town officers in a town not using official ballots, no ballot shall be received by the moderator unless presented for deposit in the ballot box, open and unfolded, by the voter in person, and so that the moderator can know that only one ballot is presented. No moderator or other election officer shall, before the polls are closed, read or examine, or permit to be read or examined, the names contained upon any ballot. R. S. 15, § 31. G. S. 18, § 30. P. S. 27, § 63.

Deposit of ballots; reading. 1798, 31, § 3. 1811, 9, § 3. R. S. 4, § 4. 1839, 42, § 4. G. S. 7, § 12. P. S. 7, § 12. 1890, 423, §§ 221, 224. 1893, 417, § 280. 1898, 548, § 345. 23 Pick. 308, 310.

SECTION 350. The moderator shall receive the votes of any person whose name is on the voting list, or who presents a proper certificate from the registrars of voters. R. S. 3, § 10. G. S. 7, § 11. P. S. 7, § 11. 1890, 423, § 223. 1893, 417, § 281. 1898, 548, § 346.

Moderator to receive votes of registered voters. 1822, 104, § 5.

SECTION 351. The secretary of the commonwealth shall at least seven days before the annual meeting send to the town clerk of each town not using official ballots, ballots upon the question of granting licenses for the sale of intoxicating liquors therein, which shall contain the words: "Shall licenses be granted for the sale of intoxicating liquors in this town?" "Yes." or "No.", and no other words. Ballots of each kind shall be provided in number equal at least to the number of registered voters in such town. They shall be distributed to the voters at the polling place under the direction of the town clerk.

Secretary of the commonwealth to provide ballots for voting on granting liquor licenses. 1888, 434, § 1. 1890, 423, §§ 81, 83. 1893, 417, § 282. 1898, 548, § 347.

SECTION 352. No ballot shall be received from any woman who votes for school committee in a town which does not use official ballots unless it has the words "For School Committee only", on the back thereof. Such ballots shall be counted only in the choice of members of the school committee, and for no other office or purpose.

Ballots for women voting for school committee. 1890, 423, § 225. 1893, 417, § 283. 1898, 548, § 348.

Precinct voting at annual town elections.
1894, 132, §§ 1, 2, 4.
1898, 548, § 349.

SECTION 353. Towns divided into voting precincts may, for their annual town election, establish precinct voting for all town officers to be chosen thereat and for voting on the question of granting licenses for the sale of intoxicating liquors, by accepting the provisions of this section at a meeting called for the purpose and held fourteen days at least before the annual town meeting. In towns so voting, or which have accepted the corresponding provisions of earlier laws, all matters to be considered at the annual town meeting, other than the election of town officers and the question of granting licenses for the sale of intoxicating liquors, shall be in order only at a town meeting held within thirty days after the date of the annual election, and not later than the thirtieth day of April. The time and place of holding such subsequent meeting shall be stated in the warrant for the annual election, and said election, subsequent meeting and its adjournments shall be regarded as parts of the annual town meeting. The election of a moderator shall be the first business in order at said subsequent meeting. Towns are not hereby authorized to vote by precincts at special elections of town officers.

Town clerk and registrars to canvass returns, etc.
1894, 132, § 2.
1895, 89.
1898, 548, § 350.

SECTION 354. The town clerk and the board of registrars, upon receipt of the returns from the several precincts, shall forthwith canvass the same and immediately declare the result and notify the persons chosen as town officers as provided in section three hundred and forty-seven. The provisions of this and the preceding section shall not authorize precinct voting in special elections of town officers to fill a vacancy or otherwise.

PROCEEDINGS IN CASES OF FAILURE TO ELECT, AND VACANCIES IN TOWN OFFICES.

Vacancies, how filled, etc.
1785, 75, § 4.
R. S. 15, § 42.
1855, 8.
G. S. 18, § 43.
1864, 174.
P. S. 27, § 93.
1890, 386, § 15.
1891, 336, § 1.
1893, 417, § 284.
1898, 548, § 351.

SECTION 355. If there is a failure at an election to choose a town officer, or if a person chosen shall not accept such office, or if a vacancy shall occur, the town may, at any legal meeting, except as provided in section three hundred and fifty-eight, elect a person to such office.

If, at an election of town officers for which official ballots are used, there is a failure to elect a town officer, he may be elected at an adjourned or succeeding meeting; and ballots shall be prepared and furnished for such meeting, containing the nominations already made and such as may subsequently be made for the office.

Town clerk pro tempore.
1829, 54.
R. S. 15, §§ 49–51.
G. S. 18, §§ 47, 48.
P. S. 27, §§ 97, 98.
1893, 417, § 285.
1898, 548, § 352.

SECTION 356. If, at a town meeting, there is a vacancy in the office of town clerk, or if he is absent, the meeting shall elect by ballot a clerk pro tempore. The selectmen shall receive and count the votes and declare the election of such clerk. If, in case of a vacancy, other duties than those required of a town clerk at a town meeting are to be performed, or if he is unable to perform such duties, the selectmen may in writing under their hands appoint a clerk for the performance thereof, who shall be sworn and shall, in the performance of such duties, have the same powers and be subject to the same requirements and penalties as the town clerk, and he shall immediately make a record of his election or appointment.

SECTION 357. A person chosen constable at a town meeting shall, if present, forthwith declare his acceptance or refusal of his office. If he does not accept the office, the town shall, if official ballots are not used, elect another person to the office, and continue so to elect until some person accepts the office and is sworn.

Constable to declare acceptance or refusal forthwith.
1785, 75, § 3.
R. S. 15, § 67.
G. S. 18, § 33.
P. S. 27, § 81.
1893, 417, § 286.

1898, 548, § 353.

SECTION 358. If the assessors of a town, or the selectmen acting as such, shall in any year fail to perform their duties, the county commissioners may appoint three or more inhabitants of the county to be assessors for such town, who shall be sworn, shall hold office until the offices of assessors are filled by the town, and shall receive from the town the compensation of assessors.

Vacancy in office of assessors, how filled.
1785, 50, § 3.
R. S. 15, §§ 36, 37.
G. S. 18, § 36.
P. S. 27, § 84.
1893, 417, § 287.
1898, 548, § 354.

SECTION 359. If the office of treasurer or collector of taxes is vacant, or if the treasurer or collector is unable to perform his duties, the selectmen may in writing appoint a treasurer or collector pro tempore, who shall be sworn, give bond in like manner as the treasurer or collector chosen by the town, and hold such office until another is chosen by the town and qualified or the disability is removed. If a treasurer or collector does not, within ten days after his election or appointment, give bond, the selectmen may declare the office vacant and appoint another in his place.

Vacancy, treasurer or collector pro tempore, etc.
1838, 43.
G. S. 18, § 42.
1865, 234.
P. S. 27, §§ 90, 91.
1893, 417, § 288.
1898, 548, § 355.

SECTION 360. If the office of an auditor in a town is vacant, the remaining auditors, if any, may perform the duties thereof and may appoint a person to aid them. If there is no remaining auditor, the selectmen shall appoint an auditor to serve until another is chosen and qualified.

Auditor pro tempore.
1890, 254.
1893, 417, § 289.
1898, 548, § 356.

SECTION 361. If there is a failure to elect, or if a vacancy occurs in any town office, other than the offices of selectman, town clerk, assessor, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, the remaining members shall give notice thereof in writing to the selectmen, who, with the remaining member or members of such board shall, after one week's notice, fill such vacancy by ballot. A majority of the ballots of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall perform the duties of the office until the next annual meeting or until another is chosen and qualified.

Certain offices to be filled by appointment.
1864, 174.
P. S. 27, § 86.
1891, 336, § 1.
1893, 417, § 290.
1898, 548, § 357.

SECTION 362. If a person removes from a town, he shall thereby vacate any town office held by him.

Offices vacated by removal from town.

P. S. 27, § 89. 1893, 417, § 291. 1898, 548, § 358. 1 Pick. 129.

SECTION 363. The proceedings in an election held by reason of a previous failure to elect, or to fill a vacancy, and the qualifications of a person to be elected or appointed, shall be the same as in an original election.

Proceedings at special elections.
1891, 336, § 2.

1893, 417, § 292. 1898, 548, § 359.

TOWN ELECTIONS AT WHICH OFFICIAL BALLOTS ARE USED.

Proceedings in towns voting to provide ballots.
1890, 386, § 1.
1893, 87; 417, § 293.
1898, 548, § 360.
160 Mass. 586, 598.
[1 Op. A. G. 617.]

SECTION 364. A town may, at a meeting called for the purpose, vote that official ballots shall thereafter be used therein; and may, at the annual meeting or at a meeting so called and held at least thirty days before the annual town meeting, by a two thirds vote rescind such action. In town elections at which official ballots are used, nominations for town officers elected by ballot shall be made, ballots and other apparatus therefor provided, and elections of such officers conducted, in accordance with the provisions of this chapter so far as applicable.

Towns to determine officers to be chosen by ballot, etc.
1890, 386, § 2.
1891, 10, § 1.
1893, 417, § 294.
1898, 548, § 361.

SECTION 365. If a town votes that official ballots shall be used for the election of town officers, it shall at the same meeting determine what officers in addition to those required to be so elected shall thereafter be so chosen, and determine the number and terms of office, if not already fixed. No change shall thereafter be made in the officers to be chosen by ballot or in the number or terms of office thereof, except at a meeting held at least thirty days before the annual meeting at which such change is to become operative.

PENALTIES UPON OFFICERS.

Penalty on assessor or assistant assessor.
1890, 423, § 12.
1892, 351, § 41.
1893, 417, § 295.
1898, 548, § 362.

SECTION 366. An assessor or assistant assessor who knowingly enters on any list of assessed polls, or causes or allows to be entered thereon, the name of any person as a resident of a building, who is not a resident thereof, shall for each offence be punished by imprisonment for not more than six months.

— on registrar or assistant registrar.
1874, 376, § 18.
P. S. 6, § 30.
1884, 298, § 51.
1890, 423, § 61.
1892, 351, § 42.
1893, 417, § 296.
1898, 548, § 363.
11 Mass. 350.

SECTION 367. A registrar or assistant registrar who refuses or wilfully neglects to require, under section forty-seven, an applicant for registration to read the five lines from the constitution of the commonwealth in such manner as to show that he is neither prompted nor reciting from memory, or to write his name in the register, unless he is prevented by physical disability from so doing, or unless he had the right to vote on the first day of May in the year eighteen hundred and fifty-seven, or distinctly to announce the name of an applicant for registration before entering his name upon the register, or who knowingly prevents or seeks to prevent the registration of any legal voter, or who knowingly registers the name of any person not qualified to vote, or who is guilty of any fraud or corrupt conduct in the execution of the duties of his office, shall be punished by imprisonment for not more than six months.

— on officer of caucus.
1888, 441, § 5.
1893, 417, § 297.
1896, 435, § 5.
1898, 548, § 364.

SECTION 368. An officer of a caucus or convention who knowingly makes any false count of ballots or votes, or makes a false statement or declaration of the result of a ballot or vote, or knowingly refuses to receive any ballot offered by a person qualified to vote at such caucus or convention, or wilfully alters, defaces or destroys any ballots cast, or voting lists used thereat, before the requirements of this chapter have been complied with, or declines or wilfully fails to receive any written request made as therein required, or declines or wilfully fails to perform any duty or obligation imposed thereby shall be punished by imprisonment for not more than three months.

Any such presiding officer, secretary or clerk of a caucus who wilfully neglects or refuses to comply with the requirements of section ninety-eight shall be punished by a fine of not more than fifty dollars for each offence.

SECTION 369. A caucus officer who violates any of the provisions of section ninety-one shall be punished by imprisonment for not more than one year.

Penalty on officer of caucus.
1898, 548, § 365.

SECTION 370. A supervisor appointed under section one hundred and eighty-five, violating any provision thereof, shall be punished by imprisonment for not more than one year. 1898, 548, § 366.

—on supervisor of election.
1891, 264, § 1.
1893, 417, § 298.

SECTION 371. An election officer who, before the public declaration of the vote at an election, makes any statement of the number of ballots cast, of the number of votes given for any person, of the name of any person who has voted, of the name of any person which has not been voted on, or of any other fact tending to show the state of the polls, shall be punished by imprisonment for not more than thirty days.

—on election officer.
1874, 376, §§ 54, 55.
P. S. 7, §§ 53, 54.
1888, 203.
1890, 423, § 124.
1893, 417, § 299.
1898, 548, § 367.

SECTION 372. A presiding officer at a caucus or at a state or city election, or at an election in a town at which official ballots are used, who, when the right of a person offering to vote is challenged for any legal cause, wilfully or negligently fails to require the name and residence of such person to be written upon the ballot offered by him, and to add thereto the name of the person challenging and the assigned cause, before such ballot is received, shall be punished by imprisonment for not more than one year.

—on presiding officer at a caucus or election.
1877, 206.
P. S. 7, §§ 22-24.
1890, 423, § 93.
1893, 417, § 300.
1898, 548, § 368.

SECTION 373. An election or other officer whose duty it is to recount the ballots cast at an election, who makes any statement or gives any information in regard to a ballot cast by a voter challenged at such election, except as required by law, shall be punished by imprisonment for not more than one year.

—on election or other officer recounting ballots.
1892, 332, § 2.
1893, 417, § 301.
1898, 548, § 369.

SECTION 374. A presiding officer who, at a town election at which official ballots are not used, before the polls are closed and without the consent of a voter, reads or examines or permits to be read or examined, the names written on the ballot of such voter, in order to ascertain the persons voted for by him, shall be punished by imprisonment for not more than thirty days.

—on presiding officer at town election.
1811, 9, § 3.
R. S. 15, § 31.
G. S. 18, § 30.
P. S. 27, § 63.
1890, 423, § 221.
1893, 417, § 302.
1898, 548, § 370.

SECTION 375. A presiding or other election officer who wilfully or negligently violates any provision relating to the enclosing in envelopes, sealing, indorsing and delivering or transmitting of ballots and voting lists after the votes have been counted and recorded, shall be punished by imprisonment for not more than one year.

—on presiding or other election officer violating § 239.
1874, 376, § 45.
P. S. 7, § 30.
1890, 423, § 99.
1893, 417, § 303.
1898, 548, § 371.

SECTION 376. A city or town clerk who examines or permits to be examined, except as required by law, ballots cast at an election which are received and retained by him under section two hundred and forty-one, shall be punished by a fine of not more than two hundred dollars. 1884, 299, § 26. 1890, 423, § 101. 1893, 417, § 304. 1898, 548, § 372.

—on city or town clerk unlawfully examining ballot, etc.
1876, 188, § 1.
1879, 203.
P. S. 7, § 34.

Penalty on city or town clerk failing to make a record of votes cast.
1856, 255, § 1.
G. S. 7, §§ 18, 35.
P. S. 7, §§ 41, 66.
1890, 423, §§ 110, 141.

SECTION 377. A city or town clerk who fails to make a record of votes cast at an election and to make and transmit copies of any such record, as required by this chapter, shall be punished by a fine of not more than two hundred dollars; but if a copy of the records is deposited in the post office within the time fixed for transmission or delivery, postpaid and properly addressed, it shall be a bar to any complaint for delinquency.

1893, 417, §§ 202, 305. 1898, 548, § 373.

—on city, town or precinct clerk.
1874, 376, § 37.
P. S. 8, § 21.
1890, 423, § 162.
1893, 417, § 306.
1898, 548, § 374.

SECTION 378. A city or town clerk or a precinct clerk who wilfully signs a certificate not in accordance with the result of an election as appearing by the records and copies of records of votes cast, or by a recount of votes, shall be punished by imprisonment for not more than one year.

—on selectmen.
1874, 376, § 36.
P. S. 8, § 20.
1890, 423, § 161.
1893, 417, § 307.
1898, 548, § 375.

SECTION 379. A selectman who wilfully gives a certificate of election to a person voted for as representative in the general court, which is not in accordance with the declaration of the vote in open town meeting at the time of the election, or not in accordance with a recount of votes, shall be punished by imprisonment for not more than one year.

—on public officer or election officer.
P. S. 7, § 65; 9, § 8; 10, § 16.
1888, 436, § 30.
1889, 413, § 30.
1890, 423, §§ 82, 119, 140, 169, 203.
1891, 328.
1892, 351, § 43.
1893, 417, § 308.
1896, 547, § 7.
1897, 296, § 7; 530, § 19.
1898, 548, § 376.

SECTION 380. A public officer, caucus or election officer, or officer or member of a political committee or political convention, upon whom a duty is imposed by law, who refuses or wilfully neglects or wilfully fails to perform such duty, or who wilfully performs it contrary to law, shall for each offence, if no other penalty is herein specifically imposed therefor, be punished by imprisonment for not more than one year. An election officer in the city of Boston who knowingly permits or aids in the violation of any provisions of law relating to registration or elections, shall be punished by imprisonment in the state prison for not more than three years or in the house of correction for not less than six months.

PENALTIES UPON VOTERS.

—for illegal voting at caucus.
1874, 344.
P. S. 7, § 56.
1888, 441, § 4.
1890, 423, § 132.
1893, 417, § 320.
1897, 530, § 16.
1898, 548, § 377.

SECTION 381. Whoever at a caucus votes or attempts to vote, knowing that he is not entitled so to do, or votes or attempts to vote upon any name other than his own, or more than once on his own name, or casts or attempts to cast more than one ballot, or places any distinguishing mark upon a ballot, or makes a false statement as to his ability to mark his ballot, or unlawfully allows the marking of his ballot to be seen by any person, or gives a false answer to, or makes a false oath before, a presiding officer, shall be punished by imprisonment for not more than six months.

Same subject.
1898, 548, § 378.

SECTION 382. A voter who violates any of the provisions of section ninety-one shall be punished by imprisonment for not more than one year.

Penalty for placing distinguishing mark on ballot.
1889, 413, § 27.

SECTION 383. A voter who, at an election, places any distinguishing mark upon his ballot shall be punished by imprisonment for not more than six months. 1892, 368. 1893, 417, § 309. 1898, 548, § 379.

SECTION 384. A voter who makes a false statement as to his inability to mark a ballot, or who, except for the purpose of obtaining assistance under section two hundred and twenty-nine, allows his ballot to be seen by any person with an intention of indicating how he is about to vote shall be punished by a fine of not more than one hundred dollars.

Penalty for making false statement, etc.
1888, 436, § 27.
1889, 413, § 27.
1893, 417, § 310.
1898, 548, § 380.

SECTION 385. Whoever at an election, knowing that he is not a voter, wilfully votes thereat; whoever at an election votes more than once on his own name, his name having been registered more than once; whoever at an election votes in more than one voting precinct or town, his name having been registered in more than one voting precinct or town; whoever at an election, votes or attempts to vote upon any name other than his own, or knowingly casts or attempts to cast more than one ballot at one time of balloting, shall be punished by imprisonment for not more than one year.

9 Met. 268. 122 Mass. 12. 144 Mass. 144. 145 Mass. 257, 260.

—for illegal voting or attempting to vote.
1800, 74, § 3.
1813, 68, §§ 1, 2.
R. S. 4, §§ 6, 7.
G. S. 7, §§ 28, 29.
1874, 344.
1876, 172, § 1.
P. S. 7, §§ 55–57.
1884, 299, § 41.
1885, 351, § 2.
1890, 423, §§ 129, 133, 219.
1893, 417, § 311.
1898, 548, § 381.

SECTION 386. Whoever at an election wilfully gives a false answer to a presiding officer shall be punished by a fine of not more than one hundred dollars.

1890, 423, § 135. 1893, 417, § 312. G. S. 7, § 30. 1898, 548, § 382. P. S. 7, § 59. 7 Met. 52.

—for giving false answer to election officer.
1800, 74, § 4.
R. S. 4, § 8.

GENERAL PENALTIES.

SECTION 387. Whoever, being an inmate of a building and liable to be assessed for a poll tax, refuses or neglects to give his true name when asked by an assessor or assistant assessor, or whoever, being an owner or occupant of a building, refuses or neglects to give the full and true information within his knowledge relating to all persons residing in such building, when asked by an assessor or assistant assessor, shall be punished by imprisonment for not more than three months.

—for refusal to give true name, information, etc., to assessor.
1890, 423, § 13.
1892, 351, § 46.
1893, 417, § 313.
1898, 548, § 383.

SECTION 388. Whoever knowingly gives to an assessor or assistant assessor, for the purpose of the assessment of a poll tax, the name of any person as a resident of a building, who is not a resident therein, shall be punished by imprisonment for not more than one year.

—for giving name of non-resident to assessor.
1892, 351, § 46.
1893, 417, § 314.
1898, 548, § 384.

SECTION 389. Whoever knowingly or wilfully makes a false affidavit, takes a false oath or signs a false certificate relative to the qualifications of any person for assessment or registration shall be punished by imprisonment for not more than one year.

1892, 351, § 44. 1893, 417, § 315. 1898, 548, § 385. 7 Allen, 155.

—for false affidavit, etc., regarding qualifications for assessment or registration.
P. S. 6, § 31.
1884, 298, § 33.
1890, 423, § 63.

SECTION 390. Whoever causes his name to be registered, knowing that he is not a qualified voter in the place where he is so registered, or falsely represents, or attempts to represent himself as some other person to any registrar or assistant registrar, or gives a false answer to either relative to any matter relating to the registration of a voter or to the right of any person to vote, or aids or abets any other person in doing any of the acts above mentioned, shall be punished by imprisonment for not more than one year. Whoever, in the city of Boston, gives a false answer to any author-

—for registering when not qualified, false representation, answer, etc.
1874, 376, § 16.
1881, 210, § 7.
P. S. 6, § 31.
1884, 298, § 52.
1890, 423, § 62.
1892, 351, § 45.
1893, 417, § 316.
1896, 547, § 7.
1897, 296, § 7.
1898, 548, § 386.
7 Allen, 155.

ized question relating to his registration asked by an election commissioner or deputy commissioner in the city of Boston, or attempts to register under a name other than his own, or otherwise to register illegally, or votes or attempts to vote under a name other than his own, or otherwise to vote illegally, shall be punished by imprisonment in the state prison for not more than three years or in the house of correction for not less than six months.

Penalty for disorderly conduct, etc., at registration. 1884, 298, § 41. 1892, 351, § 47.

SECTION 391. Whoever refuses to obey the lawful orders or directions of a registrar or assistant registrar, or interrupts or disturbs the proceedings at any registration, shall be punished by a fine of not more than one hundred dollars. 1893, 417, § 317. 1898, 548, § 387.

— for preventing or interfering with supervisor of registration, etc. 1884, 298, § 50.

SECTION 392. Whoever interferes with, or aids or abets any person in interfering with, any supervisor of registration in the performance of his duty, shall be punished by imprisonment for not more than one year. 1892, 351, § 44. 1893, 417, § 318. 1898, 548, § 388.

— for defacing or removing notice, etc. 1883, 156. 1887, 147. 1890, 423, § 64. 1892, 351, § 44.

SECTION 393. Whoever wilfully defaces or removes a notice relating to the registration of voters, or a voting list or notice or warrant for an election posted in a city or town shall be punished by imprisonment for not more than one year. 1893, 417, § 319. 1898, 548, § 389.

— for aiding or abetting illegal voting, etc. 1897, 530, § 17. 1898, 548, § 390.

SECTION 394. Whoever aids or abets a person, who is not entitled to vote, in voting or attempting to vote at a caucus, or in voting or attempting to vote under a name other than his own, or in casting or attempting to cast more than one ballot, or wilfully and without lawful authority hinders, delays or interferes with, or aids in hindering, delaying or interfering with, a voter while on his way to a caucus, while marking his ballot or while voting or attempting to vote, or endeavors to induce a voter to show his ballot, shall be punished by imprisonment for not more than one year.

— for alteration of ballot. 1897, 530, § 18. 1898, 548, § 391.

SECTION 395. Whoever alters a ballot cast at a caucus or, not being authorized thereto, deposits a ballot in a ballot box or envelope used at a caucus, or removes a ballot from such ballot box or envelope, shall be punished by imprisonment in jail for not more than three years.

— for falsely making, filing, defacing, etc., certificate, letter, etc. 1888, 436, § 29. 1889, 413, § 29. 1893, 417, § 321. 1897, 530, § 15. 1898, 548, § 392. 163 Mass. 539.

SECTION 396. Whoever falsely makes or wilfully alters, defaces, mutilates, destroys or suppresses a certificate of nomination or nomination paper, or letter of withdrawal of a name from such paper, or unlawfully signs any such certificate, paper or letter, or files any such certificate, paper or letter, knowing the same to be falsely made or altered, shall be punished by imprisonment for not more than one year.

— for magistrate failing to ascertain identity of signer of nomination paper, etc. 1895, 237, § 2. 1898, 548, § 393.

SECTION 397. Whoever as a notary public, justice of the peace or other magistrate takes the oath of a signer to a nomination paper without satisfying himself that the person to whom the oath is administered is the signer of such nomination paper, or who shall fail to state in his attestation of such oath that he is so satisfied, shall be punished by a fine of not less than ten or more than fifty dollars.

SECTION 398. Whoever intentionally writes, prints, posts or distributes, or causes to be written, printed, posted or distributed, a circular or poster which is designed or tends to injure or defeat any candidate for nomination or election to any public office, by criticising his personal character or political action, unless there appears upon such circular or poster in a conspicuous place either the names of the chairman and secretary, or of two officers of the political or other organization issuing the same, or of some voter who is responsible therefor, with his name and residence, and the street and number thereof, if any, shall be punished by imprisonment for not more than six months.

Penalty for writing, printing, posting, distributing, etc., anonymous circulars, etc.
1890, 381.
1893, 417, § 322.
1898, 548, § 394.

SECTION 399. Whoever posts, circulates or distributes any poster, card, handbill, placard, picture or circular, except a paster to be placed upon the official ballot, intended to influence the action of a voter, in the polling place, in the building in which the polling place is located or on the walls thereof, on the premises on which the building stands, or on the sidewalk adjoining said premises, shall be punished by a fine of not more than twenty dollars.

— for distribution of circulars, etc., at polling place.
1895, 275, § 2.
1898, 548, § 395.

SECTION 400. Whoever wilfully or maliciously injures or destroys a ballot box or any of the blank forms or apparatus furnished to a city or town under sections one hundred and eighty-eight and one hundred and eighty-nine, shall be punished by imprisonment for not more than one year. 1898, 548, § 396.

— for injuring state ballot box, blanks or apparatus.
1884, 299, § 15.
1890, 423, § 88.
1891, 328, § 5.
1893, 417, § 323.

SECTION 401. Whoever refuses or wilfully neglects to comply with any regulation made by the aldermen or by the selectmen relative to the manner of receiving, counting and returning votes cast at an election, or relative to the use of seals and ballot boxes, shall be punished by imprisonment for not more than six months. 1898, 548, § 397.

— for refusing to comply with regulations of authorities.
1884, 299, § 18.
1890, 423, § 94.
1893, 417, §§ 324, 343.

SECTION 402. Whoever prevents a supervisor of elections from doing any of the acts authorized by section one hundred and eighty-five of this chapter, or hinders or molests him in doing any such acts, or aids or abets in preventing, hindering or molesting him in doing any of such acts, shall be punished by imprisonment for not more than one year.

— for preventing, hindering, molesting, etc., supervisor of elections.
1891, 264, § 1.
1893, 417, § 325.
1898, 548, § 398.

SECTION 403. Whoever prints or distributes a ballot for use in the election of moderator at a town meeting in violation of section three hundred and forty-two, shall be punished by imprisonment for not more than sixty days.

— for printing unauthorized ballots for moderator.
1893, 177, § 2; 417, § 326.
1898, 548, § 399.

SECTION 404. Whoever, before an election, wilfully defaces or destroys any list of candidates posted under the provisions of this chapter, or, during a caucus or an election, wilfully defaces, tears down, removes or destroys any card of instruction or specimen ballot posted for the instruction of voters, or during a caucus or an election, wilfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot, shall be punished by a fine of not more than one hundred dollars.

— for destroying, etc., lists, cards, specimen ballots, supplies, etc.
1888, 436, § 28.
1889, 413, § 28.
1893, 417, § 327.
1898, 548, § 400.

Penalty for forging, etc., endorsement, destroying, or delaying delivery of ballots.
1885, 248, § 2.

SECTION 405. Whoever forges or falsely makes the official indorsement on any ballot, or wilfully destroys or defaces a ballot, or wilfully delays the delivery of any ballots, shall be punished by imprisonment for not more than one year.
1888, 436, § 29. 1889, 413, § 29. 1893, 417, § 328. 1898, 548, § 401.

— for obstructing or delaying voter.
1884, 299, § 40
1890, 423, § 128.
1893, 417, § 329.
1898, 548, § 402.

SECTION 406. Whoever wilfully and without lawful authority obstructs or delays a voter while on his way to the polling place where he is entitled to vote or while he is voting or attempting to vote, or aids or assists in any such obstruction or delay, shall be punished by imprisonment for not more than one year.

— for interfering with voter, or inducing voter to show ballot.
1888, 436, § 27.
1889, 413, § 27.

SECTION 407. Whoever interferes or attempts to interfere with a voter while he is marking his ballot or is within the space enclosed by the guard rail, or endeavors to induce a voter, before he has voted, to show how he marks or has marked his ballot, shall be punished by a fine of not more than one hundred dollars.
1893, 417, § 330. 1898, 548, § 403.

— for obstructing voting at an election.
1889, 413, § 28.
1893, 417, § 331.

SECTION 408. Whoever wilfully obstructs the voting at an election shall be punished by a fine of not more than one hundred dollars. 1898, 548, § 404.

— for aiding or abetting in illegal voting.
1843, 68, § 3.
R. S. 4, § 9.
G. S. 7, § 32.
1876, 172, § 3.
P. S. 7, §§ 58, 62.
1884, 299, § 42.
1890, 423, §§ 130, 134.

SECTION 409. Whoever aids or abets a person who is not qualified to vote at an election in voting or attempting to vote, or aids or abets a person in voting or attempting to vote under a name other than his own, or in casting or attempting to cast more than one ballot at one time of balloting, shall be punished by imprisonment for not more than one year. 1893, 417, § 332. 1898, 548, § 405.

— for marking ballot contrary to law.
1892, 368.
1893, 417, § 333.
1898, 548, § 406.

SECTION 410. Whoever places a mark against a name on a ballot not cast by himself, or places a distinguishing mark on a ballot not cast by himself, except as authorized by law, shall be punished by imprisonment in jail for not more than three years.

— for altering, depositing or removing ballot with intent to defraud.
1884, 299, § 43.
1890, 423, § 131.
1893, 417, § 334.
1898, 548, § 407.
145 Mass. 257.
157 Mass. 403.

SECTION 411. Whoever, with intent to defraud, alters a ballot cast at an election; or, with such intent, deposits a ballot in the ballot box used at an election, or in an envelope provided by law for the preservation of ballots cast at an election; or, with such intent, removes a ballot from any such ballot box or envelope, shall be punished by imprisonment in jail for not more than three years.

— for removal of ballot from enclosed space.
1889, 413, § 29.
1893, 417, § 335.

SECTION 412. Whoever removes a ballot from the space enclosed by the guard rail before the close of the polls shall be punished by imprisonment for not more than one year. 1898, 548, § 408.

— for employing, etc., certain persons on day of state election.
1890, 423, § 144.
1893, 417, § 336.
1894, 508, §§ 4, 7.
1898, 548, § 409.

SECTION 413. An owner, superintendent or overseer in any manufacturing, mechanical or mercantile establishment, except such as may lawfully conduct its business on Sunday, who employs or permits to be employed therein any person entitled to vote at a state election, during the period of two hours after the opening of the polls in the voting precinct or town in which such person is entitled to vote, if he shall make application for leave of absence

during such period, shall be punished by a fine of not more than one hundred dollars.

SECTION 414. Whoever, by threatening to discharge a person from his employment or to reduce his wages, or by promising to give him employment at higher wages, attempts to influence a voter to give or to withhold his vote at an election, or whoever, because of the giving or withholding of a vote at an election, discharges a person from his employment or reduces his wages, shall be punished by imprisonment for not more than one year.

Penalty for attempting to influence voter by threats, etc.
1852, 321.
G. S. 7, § 31.
P. S. 7, § 60.
1890, 423, § 136.
1893, 417, § 337.
1894, 209, § 1; 508, §§ 5, 58.
1898, 548, § 410.

SECTION 415. Whoever pays or gives, or directly or indirectly promises to a voter any gift or reward to influence his vote or to induce him to withhold his vote, shall be punished by imprisonment for not more than one year. 1893, 417, § 338. 1898, 548, § 411.

— for bribery at elections.
1876, 172, § 2.
P. S. 7, § 61.
1890, 423, §§ 136, 137.

SECTION 416. Whoever, at a caucus or at an election, behaves in a disorderly manner, and, after notice from the presiding officer, persists in such behavior and refuses to withdraw from the polling place, shall be punished by imprisonment for not more than thirty days. 1893, 417, § 339. 1898, 548, § 412. 16 Mass. 385.

— for disorderly conduct at elections.
1795, 55, § 4.
R. S. 4, § 10.
G. S. 7, § 33.
P. S. 7, § 63.
1890, 423, §§ 138, 220.

SECTION 417. Whoever wilfully disobeys any lawful command of an election or caucus officer shall be punished by imprisonment for not more than thirty days. 1893, 417, § 340. 1898, 548, § 413.

— for disobeying election officers.
1884, 299, § 40.
1890, 423, § 128.

SECTION 418. Whoever, when so ordered by the presiding officer of an election, caucus or meeting, refuses or fails to remove any pipe, cigar, cigarette or liquor, or to withdraw from the polling place, as provided by section two hundred and twenty-two, shall be punished by a fine of not more than twenty dollars.

— for not removing pipe, cigar or liquor.
1881, 273.
P. S. 7, § 64.
1890, 423, § 139.
1893, 417, § 341.
1898, 548, § 414.

SECTION 419. Whoever gives any information derived from a recount of votes, relative to a ballot cast by a challenged voter at an election or caucus, shall be punished by imprisonment for not more than one year. 1898, 548, § 415.

— for giving information regarding challenged votes.
1892, 332, § 2.
1893, 417, § 342.

SECTION 420. Whoever violates the provisions of sections two hundred and ninety-two to two hundred and ninety-four, inclusive, shall be punished by imprisonment for not more than one year, and whoever violates any other provision of this chapter relative to corrupt practices in elections shall be punished by a fine of not more than one thousand dollars.

— for violation of provisions relating to corrupt practices in elections.
1892, 416, § 22.
1893, 376, §§ 1, 2; 417, § 344.
1897, 530, § 14.
1898, 548, § 416.

SECTION 421. The supreme judicial court and the superior court shall have jurisdiction at law or in equity to enforce the provisions of this chapter. Police officers and constables shall arrest without a warrant any person detected in the act of violating the caucus or election laws.

Enforcement of title.
1897, 530, § 20.
1898, 548, § 417.

CONGRESSIONAL DISTRICTS.

Congressional districts.
P. S. 9, §§ 1, 2.
1882, 255.
1891, 396.
1896, 519.
1901, 511.

SECTION 422. For the purpose of choosing representatives in the fifty-eighth congress of the United States, and in each subsequent congress until otherwise provided by law, the commonwealth shall be divided into fourteen districts, each of which shall elect one representative, and shall be constituted as follows: —

District Number One.
[1 Op. A. G. 331.]

Number One. The cities of North Adams and Pittsfield, and the several towns in the county of Berkshire; the towns of Ashfield, Bernardston, Buckland, Charlemont, Colrain, Conway, Deerfield, Gill, Greenfield, Hawley, Heath, Leyden, Monroe, Rowe, Shelburne and Whately, in the county of Franklin; the towns of Chesterfield, Cummington, Goshen, Hatfield, Huntington, Middlefield, Plainfield, Southampton, Westhampton, Williamsburg and Worthington, in the county of Hampshire; and the city of Holyoke, and the towns of Agawam, Blandford, Chester, Granville, Montgomery, Russell, Southwick, Tolland, Westfield and West Springfield, in the county of Hampden, shall form one district, which shall be called district number one.

District Number Two.

Number Two. The towns of Erving, Leverett, Montague, New Salem, Northfield, Orange, Shutesbury, Sunderland, Warwick and Wendell, in the county of Franklin; the city of Northampton, and the towns of Amherst, Belchertown, Easthampton, Enfield, Granby, Greenwich, Hadley, Pelham, Prescott, South Hadley and Ware, in the county of Hampshire; the cities of Chicopee and Springfield, and the towns of Brimfield, East Longmeadow, Hampden, Holland, Longmeadow, Ludlow, Monson, Palmer, Wales and Wilbraham, in the county of Hampden; and the towns of Athol, Barre, Brookfield, Dana, Hardwick, New Braintree, North Brookfield, Oakham, Petersham, Phillipston, Royalston, Warren and West Brookfield, in the county of Worcester, shall form one district, which shall be called district number two.

District Number Three.

Number Three. The city of Worcester, and the towns of Auburn, Charlton, Douglas, Dudley, Grafton, Holden, Leicester, Millbury, Northbridge, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Uxbridge, Webster, Westborough and West Boylston, in the county of Worcester, shall form one district, which shall be called district number three.

District Number Four.

Number Four. The city of Fitchburg, and the towns of Ashburnham, Berlin, Bolton, Boylston, Clinton, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Northborough, Princeton, Southborough, Sterling, Templeton, Westminster and Winchendon, in the county of Worcester; and the cities of Marlborough and Waltham, and the towns of Acton, Ashby, Ashland, Ayer, Bedford, Boxborough, Concord, Framingham, Groton, Hudson, Lexington, Lincoln, Littleton, Maynard, Natick, Pepperell, Shirley, Stow, Sudbury, Townsend, Wayland, Westford and Weston, in the county of Middlesex, shall form one district, which shall be called district number four.

District Number Five.

Number Five. The city of Lowell, and the towns of Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, North Reading, Reading, Tewksbury, Tyngsborough and Wilmington, in the county of Middlesex; and the city of Lawrence, and the towns of Andover,

Lynnfield, Methuen and North Andover, in the county of Essex, shall form one district, which shall be called district number five.

District Number Six.

Number Six. The cities of Beverly, Gloucester, Haverhill, Newburyport and Salem, and the towns of Amesbury, Boxford, Danvers, Essex, Georgetown, Groveland, Hamilton, Ipswich, Manchester, Marblehead, Merrimac, Middleton, Newbury, Peabody, Rockport, Rowley, Salisbury, Swampscott, Topsfield, Wenham and West Newbury, in the county of Essex, shall form one district, which shall be called district number six.

District Number Seven.

Number Seven. The city of Lynn, and the towns of Nahant and Saugus, in the county of Essex; the cities of Everett, Malden and Melrose, and the towns of Stoneham and Wakefield, in the county of Middlesex; and the city of Chelsea, and the town of Revere, in the county of Suffolk, shall form one district, which shall be called district number seven.

District Number Eight.

Number Eight. The cities of Cambridge, Medford, Somerville and Woburn, and the towns of Arlington, Belmont and Winchester, in the county of Middlesex, shall form one district, which shall be called district number eight.

District Number Nine.

Number Nine. The wards numbered one, two, three, four, five, six, seven, eight, nine, and precincts six and seven of the ward numbered twelve, in the city of Boston, and the town of Winthrop, in the county of Suffolk, shall form one district, which shall be called district number nine.

District Number Ten.

Number Ten. The wards numbered thirteen, fourteen, fifteen, sixteen, seventeen, twenty and twenty-four, in the city of Boston, in the county of Suffolk; and the city of Quincy, and the town of Milton, in the county of Norfolk, shall form one district, which shall be called district number ten.

District Number Eleven.

Number Eleven. The wards numbered ten, eleven, and precincts one, two, three, four and five of the ward numbered twelve, and the wards numbered eighteen, nineteen, twenty-one, twenty-two, twenty-three and twenty-five, in the city of Boston, in the county of Suffolk, shall form one district, which shall be called district number eleven.

District Number Twelve.

Number Twelve. The towns of Avon, Bellingham, Braintree, Brookline, Canton, Dedham, Dover, Foxborough, Franklin, Holbrook, Hyde Park, Medfield, Medway, Millis, Needham, Norfolk, Norwood, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth and Wrentham, in the county of Norfolk; the city of Newton, and the towns of Holliston, Hopkinton, Sherborn and Watertown, in the county of Middlesex; the towns of Blackstone, Hopedale, Mendon, Milford and Upton, in the county of Worcester; and the town of North Attleborough, in the county of Bristol, shall form one district, which shall be called district number twelve.

District Number Thirteen.

Number Thirteen. The cities of Fall River and New Bedford, and the towns of Acushnet, Berkley, Dartmouth, Dighton, Fairhaven, Freetown, Rehoboth, Seekonk, Somerset, Swansea and Westport, in the county of Bristol; the towns of Marion, Mattapoisett and Rochester, in the county of Plymouth; and the several towns in the counties of Dukes County and Nantucket, shall form one district, which shall be called district number thirteen.

District Number Fourteen.

Number Fourteen. The city of Brockton, and the towns of Abington, Bridgewater, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Lakeville, Marshfield, Middleborough, Norwell, Pembroke, Plymouth, Plymptom, Rockland, Scituate, Wareham, West Bridgewater and Whitman, in the county of Plymouth; the city of Taunton, and the towns of Attleborough, Easton, Mansfield, Norton and Raynham, in the county of Bristol; the town of Cohasset, in the county of Norfolk; and the several towns in the county of Barnstable, shall form one district, which shall be called district number fourteen.

COUNCILLOR DISTRICTS.

Councillor districts. Amend. const., art. 16. 1856, 307.

SECTION 423. For the purpose of choosing councillors until the next decennial apportionment the commonwealth is hereby divided into eight districts, each of which shall elect one councillor.

1857, 310. G. S. 8, §§ 2, 3. 1866, 221. 1876, 222. P. S. 8, §§ 2, 3. 1886, 348, §§ 1–9. 1896, 509, §§ 11–19.

First District.

The Cape, the first and second Plymouth and the second and third Bristol senatorial districts shall constitute the First Councillor District.

Second District.

The first Bristol, first and second Norfolk and the seventh and eighth Suffolk senatorial districts shall constitute the Second Councillor District.

Third District.

The first and second Suffolk and the first, second and third Middlesex senatorial districts shall constitute the Third Councillor District.

Fourth District.

The third, fourth, fifth, sixth and ninth Suffolk senatorial districts shall constitute the Fourth Councillor District.

Fifth District.

The first, second, third and fourth Essex and the Middlesex and Essex senatorial districts shall constitute the Fifth Councillor District.

Sixth District.

The fifth Essex and the fourth, fifth, sixth and seventh Middlesex senatorial districts shall constitute the Sixth Councillor District.

Seventh District.

The first, second, third, fourth and fifth Worcester senatorial districts shall constitute the Seventh Councillor District.

Eighth District.

The Berkshire, Berkshire and Hampshire, Franklin and Hampshire and first and second Hampden senatorial districts shall constitute the Eighth Councillor District.

SENATORIAL DISTRICTS.

Senatorial districts. Const., c. 1, § 2, art. 1. Amend. const., art. 22. 1832, 155.

SECTION 424. For the purpose of choosing senators until the next decennial apportionment the commonwealth is hereby divided, agreeably to the provisions of the constitution, into forty districts, each of which shall elect one senator.

R. S. 5, § 2. 1857, 309. G. S. 8, §§ 4, 5. 1866, 120. 1876, 190. P. S. 8, §§ 4, 5. 1886, 338. 1896, 509, §§ 1–10.

Cape District.

The towns in the counties of Barnstable, Dukes County and Nantucket shall constitute the Cape Senatorial District.

The county of Bristol is divided into three districts, as follows: —

First Bristol District.

The city of Taunton and the towns of Attleborough, Berkley, Easton, Mansfield, North Attleborough, Norton, Raynham, Rehoboth and Seekonk shall constitute the First Bristol Senatorial District.

The city of Fall River and the towns of Dighton, Somerset and Swansea shall constitute the Second Bristol Senatorial District. Second Bristol District.

The city of New Bedford and the towns of Acushnet, Dartmouth, Fairhaven, Freetown and Westport shall constitute the Third Bristol Senatorial District. Third Bristol District.

The county of Plymouth, with the town of Cohasset in the county of Norfolk, is divided into two districts, as follows: —

The towns of Abington, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, Whitman and Cohasset shall constitute the First Plymouth Senatorial District. First Plymouth District.

The city of Brockton and the towns of Bridgewater, Lakeville, Marion, Mattapoisett, Middleborough, Rochester, Wareham and West Bridgewater shall constitute the Second Plymouth Senatorial District. Second Plymouth District.

The county of Norfolk, exclusive of the town of Cohasset, is divided into two districts, as follows: —

The city of Quincy and the towns of Braintree, Canton, Holbrook, Hyde Park, Milton, Randolph and Weymouth shall constitute the First Norfolk Senatorial District. First Norfolk District.

The towns of Avon, Bellingham, Brookline, Dedham, Dover, Foxborough, Franklin, Medfield, Medway, Millis, Needham, Norfolk, Norwood, Sharon, Stoughton, Walpole, Wellesley, Westwood, and Wrentham shall constitute the Second Norfolk Senatorial District. Second Norfolk District.

The county of Suffolk, with the ward numbered three in the city of Cambridge in the county of Middlesex, is divided into nine districts, as follows: —

The city of Chelsea, the towns of Revere and Winthrop and the ward numbered one in the city of Boston shall constitute the First Suffolk Senatorial District. First Suffolk District.

The wards numbered three, four and five in the city of Boston and the ward numbered three in the city of Cambridge shall constitute the Second Suffolk Senatorial District. Second Suffolk District.

The wards numbered two, six and eight in the city of Boston shall constitute the Third Suffolk Senatorial District. Third Suffolk District.

The wards numbered seven, nine and seventeen in the city of Boston shall constitute the Fourth Suffolk Senatorial District. Fourth Suffolk District.

The wards numbered ten, twelve and eighteen in the city of Boston shall constitute the Fifth Suffolk Senatorial District. Fifth Suffolk District.

The wards numbered thirteen, fourteen and fifteen in the city of Boston shall constitute the Sixth Suffolk Senatorial District. Sixth Suffolk District.

The wards numbered sixteen, twenty and twenty-four in the city of Boston shall constitute the Seventh Suffolk Senatorial District. Seventh Suffolk District.

The wards numbered twenty-one, twenty-two and twenty-three in the city of Boston shall constitute the Eighth Suffolk Senatorial District. Eighth Suffolk District.

The wards numbered eleven, nineteen and twenty-five in the city of Boston shall constitute the Ninth Suffolk Senatorial District. Ninth Suffolk District.

The counties of Essex and Middlesex, exclusive of the ward numbered three in the city of Cambridge, are divided into thirteen districts, as follows: —

First Essex District.

The wards numbered one, two, three, four, five and seven in the city of Lynn and the towns of Nahant and Swampscott in the county of Essex shall constitute the First Essex Senatorial District.

Second Essex District.

The cities of Beverly and Salem and the towns of Danvers and Marblehead shall constitute the Second Essex Senatorial District.

Third Essex District.

The cities of Gloucester and Newburyport and the towns of Essex, Hamilton, Ipswich, Manchester, Newbury, Rockport, Rowley and Wenham shall constitute the Third Essex Senatorial District.

Fourth Essex District.

The city of Haverhill and the towns of Amesbury, Georgetown, Groveland, Merrimac, Salisbury and West Newbury shall constitute the Fourth Essex Senatorial District.

Fifth Essex District.

The city of Lawrence and the towns of Andover, Boxford, Methuen, North Andover and Topsfield shall constitute the Fifth Essex Senatorial District.

First Middlesex District.

The city of Newton and the towns of Ashland, Framingham, Holliston, Hopkinton, Natick, Sherborn, Watertown and Weston in the county of Middlesex shall constitute the First Middlesex Senatorial District.

Second Middlesex District.

The wards numbered one, two, four and five in the city of Cambridge shall constitute the Second Middlesex Senatorial District.

Third Middlesex District.

The city of Somerville and the towns of Arlington and Belmont shall constitute the Third Middlesex Senatorial District.

Fourth Middlesex District.

The cities of Everett, Malden and Melrose shall constitute the Fourth Middlesex Senatorial District.

Fifth Middlesex District.

The cities of Marlborough, Medford and Waltham and the towns of Lexington, Lincoln, Sudbury, Wayland and Winchester shall constitute the Fifth Middlesex Senatorial District.

Sixth Middlesex District.

The wards numbered five and nine in the city of Lowell and the towns of Acton, Ashby, Ayer, Bedford, Billerica, Boxborough, Burlington, Carlisle, Concord, Dunstable, Groton, Hudson, Littleton, Maynard, Pepperell, Reading, Shirley, Stow, Tewksbury, Townsend, Tyngsborough, Westford and Wilmington shall constitute the Sixth Middlesex Senatorial District.

Seventh Middlesex District.

The wards numbered one, two, three, four, six, seven and eight in the city of Lowell and the towns of Chelmsford and Dracut shall constitute the Seventh Middlesex Senatorial District.

Middlesex and Essex District.

The city of Woburn and the towns of North Reading, Stoneham, and Wakefield in the county of Middlesex, the ward numbered six in the city of Lynn and the towns of Lynnfield, Middleton, Peabody and Saugus in the county of Essex, shall constitute the Middlesex and Essex Senatorial District.

The county of Worcester is divided into five districts, as follows: —

First Worcester District.

The wards numbered four, five, six, seven and eight in the city of Worcester shall constitute the First Worcester Senatorial District.

Second Worcester District.

The wards numbered one, two and three in the city of Worcester and the towns of Berlin, Bolton, Boylston, Clinton, Harvard, Holden, Lancaster, Sterling and West Boylston shall constitute the Second Worcester Senatorial District.

Third Worcester District.

The city of Fitchburg and the towns of Ashburnham, Athol, Gardner, Leominster, Lunenburg, Royalston, Westminster and Winchendon shall constitute the Third Worcester Senatorial District.

The towns of Barre, Brookfield, Charlton, Dana, Dudley, Hardwick, Hubbardston, Leicester, New Braintree, North Brookfield, Oakham, Paxton, Petersham, Phillipston, Princeton, Rutland, Southbridge, Spencer, Sturbridge, Templeton, Warren, Webster and West Brookfield shall constitute the Fourth Worcester Senatorial District. Fourth Worcester District.

The towns of Auburn, Blackstone, Douglas, Grafton, Hopedale, Mendon, Milford, Millbury, Northborough, Northbridge, Oxford, Shrewsbury, Southborough, Sutton, Upton, Uxbridge and Westborough shall constitute the Fifth Worcester Senatorial District. Fifth Worcester District.

The counties of Berkshire, Franklin, Hampden and Hampshire are divided into five districts as follows: —

The cities of North Adams and Pittsfield and the towns of Adams, Cheshire, Clarksburg, Dalton, Florida, Hancock, Hinsdale, Lanesborough, New Ashford, Peru, Savoy, Williamstown and Windsor in the county of Berkshire shall constitute the Berkshire Senatorial District. Berkshire District.

The towns of Alford, Becket, Egremont, Great Barrington, Lee, Lenox, Monterey, Mount Washington, New Marlborough, Otis, Richmond, Sandisfield, Sheffield, Stockbridge, Tyringham, Washington and West Stockbridge in the county of Berkshire, the city of Northampton and the towns of Chesterfield, Cummington, Easthampton, Goshen, Hadley, Hatfield, Huntington, Middlefield, Plainfield, South Hadley, Southampton, Westhampton, Williamsburg and Worthington in the county of Hampshire, and the towns of Blandford, Chester and Russell in the county of Hampden, shall constitute the Berkshire and Hampshire Senatorial District. Berkshire and Hampshire District.

The towns in the county of Franklin and the towns of Amherst, Belchertown, Enfield, Granby, Greenwich, Pelham, Prescott and Ware in the county of Hampshire shall constitute the Franklin and Hampshire Senatorial District. Franklin and Hampshire District.

The city of Springfield and the towns of Brimfield, Holland, Monson, Palmer, Wales and Wilbraham in the county of Hampden shall constitute the First Hampden Senatorial District. First Hampden District.

The cities of Chicopee and Holyoke and the towns of Agawam, East Longmeadow, Granville, Hampden, Longmeadow, Ludlow, Montgomery, Southwick, Tolland, West Springfield and Westfield in the county of Hampden shall constitute the Second Hampden Senatorial District. Second Hampden District.

APPORTIONMENT OF REPRESENTATIVES.

SECTION 425. The two hundred and forty members of the house of representatives are hereby apportioned to the several counties, until the next decennial apportionment, as follows: to the county of Barnstable, three representatives; to the county of Berkshire, nine; to the county of Bristol, eighteen; to the county of Dukes County, one; to the county of Essex, thirty-three; to the county of Franklin, four; to the county of Hampden, thirteen; to the county of Hampshire, five; to the county of Middlesex, forty-seven; to the county of Nantucket, one; to the county of Norfolk, excluding therefrom the town of Cohasset, thirteen; to the county of Plymouth, including therein the town of Cohasset, twelve; to the Apportionment of representatives. Const., c. 1, § 3, art. 1. Amend. const., art. 21. 1813, 68, § 1. R. S. 5, § 3. 1857, 308. G. S. 8, § 6. 1866, 103, § 1. 1876, 15, § 1. P. S. 8, § 6. 1886, 256, § 1. 1896, 509, § 21.

county of Suffolk, fifty-three; and to the county of Worcester, twenty-eight.

Duties of commissioners. Amend. const., art. 21. 1857, 2-7, § 2.

SECTION 426. The commissioners who are elected under the provisions of section three hundred and twenty-four shall, within thirty days after the secretary of the commonwealth shall have certified to them the number of representatives to which the county of Suffolk may be entitled, as determined by the general court, assemble in the city of Boston, and, as soon as may be, shall so divide said county into representative districts of contiguous territory as to apportion the representation of said county, as nearly as may be, according to the number of voters in the several districts. Such districts shall be so formed that no ward of a city and no town shall be divided, and no district shall be so formed that it shall be entitled to elect more than three representatives. The districts shall be numbered by the commissioners, and a description of each district, its number and the number of voters therein shall be transmitted to the secretary of the commonwealth, to the treasurer of the city of Boston, to the clerk of the town of Revere and to the clerk of the town of Winthrop and shall be filed and kept in their respective offices.

TITLE III.

OF THE ASSESSMENT AND COLLECTION OF TAXES.

CHAPTER 12. — Of the Assessment of Taxes.
CHAPTER 13. — Of the Collection of Taxes.
CHAPTER 14. — Of the Taxation of Corporations.
CHAPTER 15. — Of the Taxation of Collateral Legacies and Successions.

CHAPTER 12.

OF THE ASSESSMENT OF TAXES.

SECTIONS 1–4. — Persons and Property Liable to Taxation.
SECTIONS 5–12. — Persons and Property Exempt from Taxation.
SECTIONS 13–28. — Where and to Whom Polls and Property shall be Assessed.
SECTIONS 29–33. — Evasion of Taxation.
SECTIONS 34–40. — Duty and Manner of Assessing Taxes.
SECTIONS 41–50. — Notices and Lists.
SECTIONS 51–66. — Assessment of Taxes.
SECTIONS 67–70. — Collector's List and Warrant.
SECTIONS 71, 72. — Discount and Interest on Taxes.
SECTIONS 73–84. — Abatements.
SECTION 85. — Omitted Assessments.
SECTIONS 86, 87. — Re-assessment of Taxes.
SECTIONS 88–90. — Apportionment of Taxes on Real Estate subsequently Divided.
SECTION 91. — Illegal Assessments.
SECTIONS 92–97. — Additional Duties of Assessors.
SECTIONS 98, 99. — Responsibility and Compensation of Assessors.
SECTIONS 100, 101. — Apportionment of State Tax.

PERSONS AND PROPERTY LIABLE TO TAXATION.

SECTION 1. A poll tax of two dollars shall be assessed on every male inhabitant of the commonwealth above the age of twenty years, whether a citizen of the United States or an alien.

Persons subject to a poll tax.
1780, 43.
1830, 151, § 2.
R. S. 7, § 1.

1843, 87. 1844, 145. G. S. 11, § 1. P. S. 11, § 1. 1901, 424, § 1. 7 Mass. 523. 4 Met. 181. 5 Met. 594.

SECTION 2. All property real and personal situated within the commonwealth, and all personal property of the inhabitants of the commonwealth wherever situated, unless expressly exempted by law, shall be subject to taxation.

Property subject to taxation.
1780, 43.
1830, 151, § 2.
R. S. 7, § 2.
G. S. 11, § 2.
P. S. 11, § 2.
4 Met. 564.

16 Gray, 293. 6 Allen, 559. 4 Cush. 12. 101 Mass. 317. 4 Gray, 500. 106 Mass. 540.

SECTION 3. Real estate for the purpose of taxation shall include not only all land within the commonwealth but also all buildings and other things erected on or affixed to the same.

Real estate.
R. S. 7, § 3.
G. S. 11, § 3.
P. S. 11, § 3.
22 Pick. 22.

10 Cush. 514. 101 Mass. 328. 102 Mass. 79. 118 Mass. 386. 125 Mass. 567. 130 Mass. 428. 147 Mass. 33. 153 Mass. 141.

Personal estate.
1821, 107, § 2.
1830, 151, § 2.
R. S. 7, § 4.
1839, 139, § 2.
1849, 149.
G. S. 11, § 4.
1873, 354.
1881, 284, § 1; 304, § 6.
P. S. 11, § 4.
1882, 76.
1888, 363.
16 Pick. 435, 572.
9 Met. 73, 199.
10 Cush. 128.
10 Allen, 100.
11 Allen, 309.
14 Allen, 359, 366.
103 Mass. 544.
105 Mass. 526.
106 Mass. 540.
136 Mass. 129.
137 Mass. 111.
138 Mass. 414.
139 Mass. 559.
147 Mass. 430.

SECTION 4. Personal estate for the purpose of taxation shall include: —

First, Goods, chattels, money and effects, wherever they are; ships and vessels at home or abroad, except as provided in section seven.

Second, Money at interest, and other debts due the person to be taxed more than he is indebted or pays interest for; but not including in such debts due him or indebtedness from him any loan on mortgage of real estate, taxable as real estate, except the excess of such loan above the assessed value of the mortgaged real estate.

Third, Public stocks and securities, bonds of railroads and street railways, stocks in turnpikes, bridges and moneyed corporations, within or without this commonwealth, except as provided in section sixty-one of chapter fourteen.

Fourth, The income from an annuity, or from ships and vessels engaged in the foreign carrying trade within the meaning of section seven, and the excess above two thousand dollars of the income from a profession, trade or employment accruing to the person to be taxed during the year ending on the first day of May of the year in which the tax is assessed. Incomes derived from property subject to taxation shall not be taxed.

PERSONS AND PROPERTY EXEMPT FROM TAXATION.

Exemptions.
R. S. 7, § 5.
G. S. 11, § 5.

SECTION 5. The following property and polls shall be exempted from taxation: —

P. S. 11, § 5. 4 Gray, 500. 116 Mass. 193.
4 Met. 564. 1 Allen, 199. 170 Mass. 160.
8 Cush. 237. 12 Allen, 75. 7 Wallace, 16.

Property of the United States.

First, The property of the United States.

R. S. 7, § 5, cl. 1. G. S. 11, § 5, cl. 1. P. S. 11, § 5, cl. 1.

— of the commonwealth.
R. S. 7, § 5, cl. 1.
1853, 122.
G. S. 11, § 5, cl. 2.

Second, The property of the commonwealth, except real estate of which the commonwealth is in possession under a mortgage for condition broken. 1867, 101. P. S. 11, § 5, cl. 2. 153 Mass. 141.

— of charitable, etc., institutions.
1830, 151, § 6.
R. S. 7, § 5, cl. 2.
G. S. 11, § 5, cl. 3.
1874, 375, § 8.
1878, 214.
P. S. 11, § 5, cl. 3.
1882, 217, § 2.
1886, 231.
1888, 158.
1889, 465.
2 Cush. 611.
12 Cush. 54.
99 Mass. 599.
101 Mass. 319.
104 Mass. 470, 481.
113 Mass. 518.
114 Mass. 337.
116 Mass. 181, 188.
118 Mass. 164, 362.

Third, The personal property of literary, benevolent, charitable and scientific institutions and of temperance societies incorporated within this commonwealth, the real estate owned and occupied by them or their officers for the purposes for which they are incorporated, and real estate purchased by them with the purpose of removal thereto, until such removal, but not for more than two years after such purchase. Such real or personal property shall not be exempt if any of the income or profits of the business of such corporation is divided among the stockholders or members, or is used or appropriated for other than literary, educational, benevolent, charitable, scientific or religious purposes, nor shall it be exempt for any year in which such corporation wilfully omits to bring in to the assessors the list and statement required by section forty-one.

120 Mass. 212. 145 Mass. 111, 139. 155 Mass. 329. 173 Mass. 232.
129 Mass. 178. 147 Mass. 396, 427. 160 Mass. 409. 174 Mass. 144.
136 Mass. 285. 153 Mass. 85. 167 Mass. 505. 175 Mass. 118,
142 Mass. 24. 154 Mass. 15. 172 Mass. 60. 145, 293.

— of agricultural, etc., societies.
1851, 215.
G. S. 11, § 5, cl. 9.
P. S. 11, § 5, cl. 9.
1884, 176.

Fourth, The real and personal estate of incorporated agricultural societies and the portions of real estate and buildings of incorporated horticultural societies used for their offices, libraries and exhibitions. 116 Mass. 189, 191.

— of grand army and veteran associations.

Fifth, The real and personal estate of any grand army or veteran association, incorporated within this commonwealth for the purpose

of owning property for use and occupation by posts of the grand army of the republic, to the extent of twenty thousand dollars, if it is actually used and occupied by such association and the net income from said property is used for charitable purposes in aid of needy soldiers of the war of the rebellion and their dependents; but it shall not be exempt for any year in which such association wilfully omits to bring in to the assessors the list and statement required by section forty-one. 1882, 217, § 2. 1889, 465.

Sixth, The Bunker Hill Monument. Bunker Hill Monument.

R. S. 7, § 5, cl. 3. G. S. 11, § 5, cl. 5. P. S. 11, § 5, cl. 5.

Seventh, Houses of religious worship owned by, or held in trust for the use of, any religious organization and the pews and furniture; but the exemption shall not extend to portions of such houses appropriated for purposes other than religious worship or instruction. Churches. 1821, 107, § 2. R. S. 7, § 5, cl. 5. 1841, 127. G. S. 11, § 5, cl. 7. 1865, 206, § 1. P. S. 11, § 5, cl. 7. 1 Met. 538. 118 Mass. 164.

127 Mass. 378. 129 Mass. 178. 147 Mass. 397. 155 Mass. 329.

Eighth, Cemeteries, tombs and rights of burial, so long as they shall be dedicated to the burial of the dead. Cemeteries. 1841, 114, § 7. G. S. 11, § 5, cl. 8.

P. S. 11, § 5, cl. 8. 118 Mass. 354, 361. 150 Mass. 12. 152 Mass. 408.

Ninth, The property, to the amount of five hundred dollars, of a widow, of an unmarried woman above the age of twenty-one years, of a person above the age of seventy-five years or of any minor whose father is deceased, whether such property be owned by such persons separately, or jointly, or as tenants in common: *provided*, that the whole estate real and personal of such person does not exceed in value the sum of one thousand dollars, exclusive of property otherwise exempted under the provisions of this section. No property shall be so exempt which the assessors shall adjudge has been conveyed to such person to evade taxation. A person aggrieved by such judgment may appeal to the county commissioners within the time and in the manner allowed by the provisions of section seventy-seven. Property of certain females, aged persons and minors. 1858, 43, § 1. G. S. 11, § 5, cl. 10. 1878, 206, § 1. 1880, 143. P. S. 11, § 5, cl. 10. 1885, 169. 137 Mass. 272.

Tenth, The polls and any portion of the estates of persons who by reason of age, infirmity and poverty are in the judgment of the assessors unable to contribute fully toward the public charges. — of indigent, etc., persons. 1821, 107, § 6. R. S. 7, § 5, cl. 8.

G. S. 11, § 5, cl. 13. P. S. 11, § 5, cl. 12. 137 Mass. 272. 165 Mass. 375.

Eleventh, The wearing apparel and farming utensils of every person; his household furniture not exceeding one thousand dollars in value; and the necessary tools of a mechanic not exceeding three hundred dollars in value. 1865, 206, § 1. P. S. 11, § 5, cl. 6. 167 Mass. 371. Household furniture, etc. 1821, 107, § 2. 1829, 27, § 2. R. S. 7, § 5, cl. 4. G. S. 11, § 5, cl. 7.

Twelfth, Mules, horses and neat cattle less than one year old, swine and sheep less than six months old and domestic fowls not exceeding fifteen dollars in value. G. S. 11, § 5, cl. 11. P. S. 11, § 5, cl. 11. 1894, 220. Young cattle, etc. 1821, 107, § 2. R. S. 7, § 5, cl. 6.

Thirteenth, The property of the following classes of persons to the amount of two thousand dollars in the case of each person, provided the whole estate, real and personal, of the person so exempted does not exceed in value the sum of five thousand dollars, and provided further that only two thousand dollars shall be exempted to any one family, and that the combined property of the family does not exceed five thousand dollars: First. Soldiers and sailors who served in the military or naval service of the United States in the war of the rebellion and who were honorably discharged therefrom, and who, by reason of injury received or disease contracted while in such service and in the line of duty, lost the Property of soldiers and sailors. 1894, 315. 1895, 202. 1897, 148. 1898, 370.

sight of both eyes, or lost the sight of one eye, the sight of the other having been previously lost, or who lost one or both feet, or one or both hands. Second. Soldiers and sailors who served as aforesaid and were honorably discharged as aforesaid, and who, as the result of disabilities contracted while in such service and in the line of duty, have become permanently incapacitated for the performance of manual labor to an extent equivalent, in the judgment of the assessors, to the loss of a hand or foot. Third. Wives or widows of soldiers or sailors who would be entitled to exemption under either of the two preceding paragraphs.

The certificate of the granting of a pension to any such soldier or sailor by the United States for such injury or disability shall, while such pension continues, be sufficient evidence of the receiving of such injury or disability; but the assessors may receive other evidence thereof. A person aggrieved by the judgment of the assessors may appeal to the county commissioners, within the time and in the manner allowed by the provisions of section seventy-seven.

Plantations of timber trees.
1878, 131.
1880, 109.
P. S. 11, § 7.
111 Mass. 473.
118 Mass. 386.
137 Mass. 272.

SECTION 6. All plantations of chestnut, hickory, white ash, white oak, sugar maple, European larch and pine timber trees, in number not less than two thousand trees to the acre, upon land, not at the time of said planting woodland or sprout-land and not having been such within five years previously, the actual value of which at the time of planting does not exceed fifteen dollars per acre, shall, with such land, be exempt from taxation for a period of ten years after said trees have grown in height four feet on the average subsequently to such planting, upon satisfactory proof by the owners to the assessors of these facts; but such exemption shall not extend beyond the time during which said land is devoted exclusively to the growth of said trees.

Ships and vessels engaged in the foreign carrying trade.
1881, 284, §§ 1, 2.
P. S. 11, § 8.

SECTION 7. Ships and vessels engaged in the foreign carrying trade, whether actually so engaged at the time of assessment or then in port undergoing repairs, shall not, for the purpose of taxation, be included in the personal estate of persons to be taxed; but the net yearly income of such ships and vessels shall be taxable to the owners thereof in their respective places of residence, in proportion to their several interests therein.

Same subject.
1881, 284, § 3.
P. S. 11, § 9.
137 Mass. 272.

SECTION 8. The foregoing exemption shall not apply to any ship or vessel, unless its agent or owner annually, on or before the first day of June, returns in writing under his oath, to the assessors of each city and town in the commonwealth in which an owner of any share or interest in the ship or vessel resided on the first day of May in said year, the name of such owner, the name, class and tonnage of the ship or vessel, the fact that it was on said first day of May engaged in the foreign carrying trade within the meaning of the preceding section, the share or interest of such owner therein, and the dividends paid to him upon his said share or interest during the year ending on said first day of May; and such dividends shall constitute the net yearly income to be taxed to such owner as provided in said section.

SECTION 9. The assessors of a city or town may, on or before the first day of September in any year before the year nineteen hundred and three, make a return under oath to the tax commissioner showing the amount of its taxable valuation on the preceding first day of May, the fair cash value of the ships and vessels returned to them in said year under the preceding section, the net income therefrom so returned, the rate of tax on each one thousand dollars in said year, and the increase in said rate arising under the provisions of the two preceding sections. The commissioner shall thereupon credit to the city or town as a set off to any tax or other payment to be made by it to the treasurer and receiver general an amount equal to the assessment of said increase in the rate of tax upon the amount of said taxable valuation.

Return to tax commissioner of valuation of vessels in foreign carrying trade, and set-off.
1881, 284, §§ 5, 6.
P. S. 11, § 10.
1887, 373.
1889, 286.
1891, 116.
1893, 149.
1898, 353.

SECTION 10. Property held by a city or town in another city or town for the purpose of a water supply, if yielding no rent, shall not be liable to taxation therein, but the city or town so holding it shall, annually in September pay to the city or town in which such property lies, an amount equal to that which such place would receive for taxes upon the average of the assessed values of such land, without buildings or other structures, for the three years last preceding the acquisition thereof, the valuation for each year being reduced by all abatements thereon; but any part of such land or buildings from which any revenue in the nature of rent is received shall be subject to taxation.

Land held by a city or town in another city or town for a water supply.
1893, 352, § 1.

SECTION 11. If such land is part of a larger tract which has been assessed as a whole, its assessed valuation shall be taken to be that proportional part of the valuation of the whole tract which the value of the land so acquired, exclusive of buildings, bore in the year of assessment to the value of the entire estate.

Valuation of such land.
1893, 352, § 2.

SECTION 12. The assessors of a city or town in which land is acquired by another city or town for the purpose of a water supply shall, within one year after such acquisition, determine the said average valuation of such land, and certify the amount so determined to such other city or town. The mayor of a city or the selectmen of a town, within six months after receipt of said certificate, may appeal from such determination to the superior court for the county where the land lies; and said court shall determine such valuation in the manner provided in the two preceding sections, and the provisions of sections seventy-eight and seventy-nine, so far as applicable, shall govern such appeal.

Appeal from such valuation.
1893, 352, §§ 2, 3.

WHERE AND TO WHOM POLLS AND PROPERTY SHALL BE ASSESSED.

SECTION 13. The poll tax shall be assessed upon each person liable thereto in the city or town of which he is an inhabitant on the first day of May in each year, except in cases otherwise provided for by law. The poll tax of minors liable to taxation shall be assessed to, and in the place of the residence of, the parents, masters or guardians having control of the persons of such minors; but if a minor has no parent, master or guardian within the commonwealth, he shall be personally taxed for his poll, as if he were of full age.

Poll tax, where assessed.
1780, 43.
1821, 107, § 3.
1830, 151, § 3.
R. S. 7, § 6.
G. S. 11, § 6.
1876, 225, §§ 1, 7.
P. S. 11, § 11.
5 Pick. 369.
1 Met. 242, 250.
3 Met. 199.
4 Met. 181.
11 Cush. 362.

12 Cush. 44, 52, 54.
2 Gray, 484.
3 Gray, 493.
7 Gray, 299.
9 Gray, 357.
12 Gray, 21.
16 Gray, 337.
4 Allen, 462.
12 Allen, 111, 598.

The poll tax of every other person under guardianship shall be assessed to his guardian in the place where the guardian is taxed for his own poll. In a city each inhabitant liable to assessment shall be assessed in the ward where he dwells; but no tax shall be invalid by reason of a mistake of the assessors in ascertaining the ward in which a person should be assessed.

124 Mass. 53, 132. 126 Mass. 161, 166. 132 Mass. 93. 137 Mass. 272.

Person to be taxed in place where he claims his residence.
1850, 276.
G. S. 11, § 7.
P. S. 11, § 12.

SECTION 14. A person liable to a poll tax, who is in a city or town on the first day of May, and who, when inquired of by the assessors thereof, refuses to state his legal residence, shall for the purpose of taxation be deemed an inhabitant of such place. If he designates another place as his legal residence, said assessors shall notify the assessors of such other place, who shall thereupon tax him as an inhabitant thereof; but he shall not be exempt from the payment of a tax legally assessed upon him in his legal domicil.

Land, where and to whom taxed.
1780, 43.
1830, 151, § 3.
R. S. 7, § 7.
G. S. 11, § 8.
1881, 304, § 3.
P. S. 11, § 13.
1889, 84.
1 Cush. 142.
7 Gray, 127, 277.
4 Allen, 57.
110 Mass. 47.
112 Mass. 535.
115 Mass. 32.
117 Mass. 233.
129 Mass. 378.

SECTION 15. Taxes on real estate shall be assessed, in the city or town in which the estate lies, to the person who is either the owner or in possession thereof on the first day of May, and the person appearing of record as owner on the first day of May, even though deceased, shall be held to be the true owner thereof. Except as provided in the three following sections, mortgagors of real estate shall for the purpose of taxation be deemed the owners until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

132 Mass. 94. 138 Mass. 434. 139 Mass. 19. 143 Mass. 337. 148 Mass. 510. 149 Mass. 269. 152 Mass. 203. 175 Mass. 293.

Taxation of mortgaged land.
1881, 304, § 1.
P. S. 11, § 14.
1882, 175, § 3.
135 Mass. 569.
137 Mass. 80.
159 Mass. 551.

SECTION 16. If any person has an interest in real estate, not exempt from taxation under section five, as holder of a duly recorded mortgage given to secure the payment of a fixed and certain sum of money, the amount of his interest as mortgagee shall be assessed as real estate in the place where the land lies; and the mortgagor shall be assessed only for the value of such real estate after deducting the assessed value of the interest therein of such mortgagee. If such estate is situated in two or more places, the amount of the mortgagee's interest to be assessed in each place shall be proportioned to the assessed value of the mortgaged real estate in the respective places, deducting therefrom the taxable amount of prior mortgages, if any, thereon.

Statements of mortgage conclusive on mortgagee, when.
1881, 304, § 2.
P. S. 11, § 15.
159 Mass. 553.

SECTION 17. If the holder of such mortgage fails to file in the assessors' office a statement under oath of all his estate liable to taxation under the preceding section, including a statement of the full amount remaining unpaid upon such mortgage and of his interest therein, the amount stated in the mortgage shall be conclusive as to the extent of such interest; but his interest in such real estate shall not be assessed at a greater sum than the fair cash valuation of the land and the structures thereon or affixed thereto; and the amount of a mortgage interest in an estate which has been divided after the creation of such mortgage need not be apportioned upon the several parts of such estate, except as provided in sections eighty-eight to ninety inclusive.

SECTION 18. Mortgagors and mortgagees referred to in the two preceding sections shall for the purpose of taxation be deemed joint owners until the mortgagee takes possession; and until such possession is taken by a first mortgagee, an assessor or the collector of taxes, upon application, shall give to any such mortgagee or mortgagor a tax bill showing the whole tax on the mortgaged estate and the amount included in the valuation thereof as the interest of each mortgagee and of the mortgagor respectively. If the first mortgagee is in possession, he shall be deemed sole owner; and any other mortgagee in possession shall be deemed joint owner with prior mortgagees.

Mortgagors and mortgagees joint owners for taxation. 1881, 304, § 3. P. S. 11, § 16. 137 Mass. 80, 273. 159 Mass. 553.

SECTION 19. Bonds issued by the New York and New England Railroad Company for the payment of which first mortgages made as provided in chapter three hundred and one of the acts of the year eighteen hundred and eighty-eight are held as collateral security, and also the mortgage notes so held as collateral security, shall, for the purpose of taxation and for the purpose of exemption of deposits in savings banks and institutions for savings from taxation, be deemed to be a loan on mortgage of real estate, taxable as real estate, and not otherwise.

Certain railroad bonds to be deemed mortgages on real estate. 1889, 348.

SECTION 20. If a tenant paying rent for real estate is taxed therefor, he may retain out of his rent the taxes paid by him, or may recover the same in an action against his landlord, unless there is a different agreement between them. P. S. 11, § 17. 115 Mass. 32. 142 Mass. 568.

Tenant may recover of landlord taxes paid. 1821, 107, § 3. 1830, 151, § 3. R. S. 7, § 8. G. S. 11, § 9.

SECTION 21. The undivided real estate of a deceased person may be assessed to his heirs or devisees, without designating any of them by name, until they have given notice to the assessors of the division of the estate and of the names of the several heirs or devisees; and each heir or devisee shall be liable for the whole of such tax, and when paid by him he may recover of the other heirs or devisees their respective proportions thereof.

Real estate of decedent, how taxable. Heirs, etc., severally liable. Contribution. R. S. 7, § 12. G. S. 11, § 10. P. S. 11, § 18. 149 Mass. 270. 152 Mass. 219.

SECTION 22. The real estate of a person deceased, the right or title to which is doubtful or unascertained by reason of litigation concerning the will of the deceased or the validity thereof, may be assessed in general terms to his estate, and said tax shall constitute a lien upon the land so assessed and may be enforced by sale of the same or a part thereof, as provided for enforcing other liens for taxes on real estate.

—how taxable if title doubtful, etc. 1847, 226. G. S. 11, § 11. P. S. 11, § 19. 149 Mass. 270.

SECTION 23. All personal estate, within or without the commonwealth, shall be assessed to the owner in the city or town in which he is an inhabitant on the first day of May, except as provided in chapter fourteen and in the following clauses of this section: —

Assessment of personal estate. 1830, 151, § 2. R. S. 7, §§ 9, 10. 1839, 139, § 2. G. S. 11, § 12. P. S. 11, § 20. 1 Met. 242, 259.

3 Gray, 494.	4 Met. 181.	10 Cush. 65.	11 Cush. 362.
6 Gray, 579.	16 Gray, 292, 337.	109 Mass. 270.	131 Mass. 424.
7 Gray, 277.	9 Allen, 246.	112 Mass. 384.	132 Mass. 93.
9 Gray, 433.	14 Allen, 366.	124 Mass. 143.	135 Mass. 258.
13 Gray, 488.	103 Mass. 279.	125 Mass. 348.	137 Mass. 332.
	104 Mass. 587.	126 Mass. 161, 166.	158 Mass. 461.

First, Goods, wares, merchandise and other stock in trade, except ships or vessels owned by a copartnership, and stock employed in the business of manufacturing or of the mechanic arts in cities or

—except stock in trade, etc., employed in other places. 1821, 107, § 5.

1830, 151, § 2. R. S. 7, § 10, cl. 1. 1839, 139, § 1. 1859, 114. G. S. 11, § 12, cl. 1. P. S. 11, § 20, cl. 1. 4 Met. 186. 4 Cush. 543. 10 Cush. 65. 6 Gray, 579. 13 Gray, 491. 101 Mass. 329.

towns in the commonwealth, other than those in which the owners reside, whether such owners reside within or without the commonwealth, shall be taxed in the cities or towns in which the owners hire or occupy manufactories, stores, shops or wharves, whether such property is in said places or elsewhere on the first day of May of the year when the tax is assessed. 139 Mass. 17, 266. 145 Mass. 110. 150 Mass. 155. 151 Mass. 242. 161 Mass. 9, 326.

Machinery employed in manufacturing. 1830, 151, § 2. R. S. 7, § 10, cl. 2. 1837, 86. G. S. 11, § 12, cl. 2. P. S. 11, § 20, cl. 2. 1887, 125. 1889, 446. 1894, 304. 4 Met. 181, 185. 13 Gray, 488. 12 Allen, 75, 316. 100 Mass. 183. 135 Mass. 258. 150 Mass. 155. 152 Mass. 372. 164 Mass. 142. 167 Mass. 517. 170 Mass. 354.

Second, Machinery employed in any branch of manufactures including machines used or operated under a stipulation providing for the payment of a royalty, or compensation in the nature of a royalty, for the privilege of using or operating the same, and all personal property within the commonwealth leased for profit, shall be assessed where such machines or such personal property are located, to the owner or any person having possession of the same on the first day of May. If machinery, located in a city or town other than that of which the owner is an inhabitant, is assessed therein and it is also assessed in the place of which the owner is an inhabitant, he may pay the taxes in the place where the machinery is located, and upon proof thereof to the collector of the place whereof he is an inhabitant, he shall be relieved from the payment of taxes therein on said machinery; but the place of which the owner is an inhabitant may bring suit against the place where the machinery is located to determine to which place the tax lawfully belongs.

Horses, etc. 1821, 107, § 3. 1830, 151, § 2. R. S. 7, § 10, cl. 3. 1839, 139, § 2. 1857, 301, § 1. G. S. 11, § 12, cl. 3. P. S. 11, § 20, cl. 3. 8 Allen, 330. 130 Mass. 478.

Third, Horses, mules, neat cattle, sheep and swine kept throughout the year in cities or towns other than those in which the owners reside, whether such owners reside within or without the commonwealth, and horses employed in stages or other vehicles for the transportation of passengers for hire shall be assessed to the owners in the places where they are kept. 145 Mass. 110. 152 Mass. 594.

Property of persons under guardianship. R. S. 7, § 10, cl. 4. 1855, 106. 1859, 258. G. S. 11, § 12, cl. 4. P. S. 11, § 20, cl. 4. 2 Gray, 494.

Fourth, Personal property belonging to persons under guardianship shall be assessed to the guardian in the city or town of which the ward is an inhabitant unless the ward resides and has his home without the commonwealth, in which case it shall be taxed to the guardian in the city or town of which he is an inhabitant. 4 Allen, 462. 105 Mass. 528. 145 Mass. 111.

Trust property. R. S. 7, § 10, cl. 5. G. S. 11, § 12, cl. 5. P. S. 11, § 20, cl. 5. 1894, 490. 5 Cush. 93. 6 Gray, 132. 6 Allen, 277. 105 Mass. 528. 124 Mass. 194. 140 Mass. 346. 145 Mass. 111. 147 Mass. 431. 165 Mass. 287.

Fifth, Personal property held in trust by an executor, administrator or trustee, the income of which is payable to another person, shall be assessed to the executor, administrator or trustee in the city or town in which such other person resides, if within the commonwealth; and if he resides out of the commonwealth it shall be assessed in the place where the executor, administrator or trustee resides; and if there are two or more executors, administrators or trustees residing in different places, the property shall be assessed to them in equal portions in such places, and the tax thereon shall be paid out of said income. If the executor, administrator or trustee is not an inhabitant of the commonwealth, it shall be assessed to the person to whom the income is payable, in the place where he resides, if it is not legally taxed to an executor, administrator or trustee under a testamentary trust in any other state.

Personal property held as an accumulating fund. R. S. 7, § 10, cl. 6. G. S. 11, § 12, cl. 6.

Sixth, Personal property placed in the hands of a corporation or individual as an accumulating fund for the future benefit of heirs or other persons shall be assessed to such heirs or persons, if within the commonwealth, otherwise to the person so placing it, or his

executors or administrators, until a trustee is appointed to take charge of such property or of the income thereof. P. S. 11, § 20, cl. 6. 13 Allen, 267.

121 Mass. 351. 123 Mass. 355. 124 Mass. 193. 147 Mass. 427.

Seventh, Personal property of deceased persons shall be assessed in the city or town in which the deceased last dwelt. Before the appointment of an executor or administrator it shall be assessed in general terms to the estate of the deceased, and the executor or administrator subsequently appointed shall be liable for the tax so assessed as though assessed to him. After such appointment it shall be assessed to such executor or administrator for three years or until it has been distributed and notice of such distribution has been given to the assessors stating the name and residence of the several parties interested in the estate who are inhabitants of the commonwealth and the amount paid to each. After three years from the date of such appointment it shall be assessed according to the provisions of clause five of this section. Personal property of decedents. R. S. 7, § 10, cl. 7. 1848, 235. 1852, 234. G. S. 11, § 12, cl. 7. 1878, 189, § 2. P. S. 11, § 20, cl. 7. 5 Pick. 236. 4 Cush. 1. 6 Allen, 277. 97 Mass. 322. 102 Mass. 348. 123 Mass. 376. 149 Mass. 63. 154 Mass. 143. 161 Mass. 9. 176 Mass. 77.

Eighth, Personal property taxable as such, held in trust by assignees under the insolvent law or under any bankrupt law or any voluntary assignment for the benefit of creditors, shall be assessed to such assignees in the place where the insolvent, bankrupt or assignor had his principal place of business, if any; otherwise in the place of his residence. —of insolvents, etc. 1882, 165.

Ninth, Personal property of joint owners or tenants in common, other than partners, shall be assessed to such owners according to their respective interests, in the cities or towns in which they respectively reside. —of joint tenants. 1882, 165.

SECTION 24. If personal property belonging to two or more persons under guardianship, or personal property held in trust by an executor, administrator or trustee, the income of which is payable to two or more persons, or if personal property placed in the hands of a corporation or individual as an accumulating fund for the future benefit of two or more heirs or other persons, is assessed under the preceding section by the assessors of a city or town in whole or in part, they shall, upon request in writing, made within the time specified by them for the bringing in of lists under the provisions of section forty-one and stating the names, domicils and proportionate shares of such wards, cestuis que trust, heirs or other persons, make separate assessments so as to distinguish how much of such personal property is assessed in respect to each. If any such assessment is illegally made, the taxes paid thereon may be recovered back in an action at law in the same manner as in other cases of illegal assessment. Separate assessment of personal property held in trust for several beneficiaries. 1878, 189, § 1. P. S. 11, § 21. 124 Mass. 193. 145 Mass. 111. 165 Mass. 292.

SECTION 25. Real estate held by a religious society as a ministerial fund shall be assessed to its treasurer in the town in which it lies. Personal property so held shall be assessed in the town in which such society usually holds its meetings. 147 Mass. 398. Ministerial fund. R. S. 7, § 10, cl. 8. G. S. 11, § 13. P. S. 11, § 22. 19 Pick. 542. 12 Cush. 54.

SECTION 26. Personal property mortgaged or pledged shall for the purpose of taxation be deemed the property of the party in possession thereof on the first day of May and money deposited with a safe deposit, loan and trust company which can be withdrawn on demand or upon not more than ten days' notice shall be deemed to be money in possession of the person to whom it is payable. Personal property mortgaged. R. S. 7, § 11. G. S. 11, § 14. P. S. 11, § 23. 1888, 413, § 20. 10 Met. 334. 10 Allen, 100.

Partners, how taxed.
R. S. 7, § 13.
1859, 114.
G. S. 11, § 15.
P. S. 11, § 24.
9 Cush. 298.
7 Gray, 132.
14 Allen, 366.
105 Mass. 526.
111 Mass. 322.
125 Mass. 351.
130 Mass. 144.
133 Mass. 499.

SECTION 27. Partners, whether residing in the same or in different cities or towns, may be jointly taxed under their firm name, in the place where their business is carried on, for all the personal property employed in such business, except ships or vessels. If partners have places of business in two or more towns, they shall be taxed in each of such places for the proportion of property employed therein. If so jointly taxed, each partner shall be liable for the whole tax. 137 Mass. 227. 140 Mass. 346. 163 Mass. 444. 172 Mass. 383, 464.

Ships of co-partners, how assessed.
1859, 114.
G. S. 11, § 16.
1870, 328, § 1.
P. S. 11, § 25.
10 Gray, 97.
14 Allen, 369.
125 Mass. 351.

SECTION 28. Ships or vessels owned by a partnership shall be assessed to the several partners in their places of residence, if within the commonwealth, proportionally to their interests therein; but the interests of the several partners who reside without the commonwealth shall be assessed to the partnership in the place where its business is carried on.

EVASION OF TAXATION.

Agreement for under valuation as inducement to residence.
G. S. 11, § 26.
P. S. 11, § 26.
12 Allen, 599.

SECTION 29. Whoever in any way directly or indirectly proposes or agrees to an assessment on any specific or limited amount less than that for which he is liable by law to be taxed, with the purpose or as an inducement to make any particular place his residence for the purpose of taxation, shall be punished by a fine of one thousand dollars; and an assessor guilty of making or assenting to any such proposal shall be subject to a like penalty.

Evasion of taxation, etc., by concealment of residence, etc.
1864, 172, §§ 1, 2.
P. S. 11, § 27.
124 Mass. 56, 148.
147 Mass 592.

SECTION 30. Whoever avoids taxation by wilfully and designedly changing or concealing his residence, or by any other act with the intent so to avoid taxation, shall be punished by a fine of twice the amount of the last tax paid by him, or, if he has paid no tax in the commonwealth, by a fine of not less than one hundred nor more than five thousand dollars; and he may be indicted in the county in which any of the acts or things made criminal by the provisions of this section are done or in the county in which he is liable to taxation.

For fraudulent transfers of stock.
1864, 201, § 4.
P. S. 11, § 28.
13 Gray, 539.

SECTION 31. A shareholder in a corporation who, with intent to evade taxation, fraudulently transfers a share of its stock, or fraudulently causes or procures a certificate of a share to be issued to any person other than himself or in any name other than his own; or who refuses to inform, or wilfully misinforms, the corporation respecting his name or residence; or, having changed his residence to another city or town in the commonwealth, wilfully omits to give notice thereof to any corporation in the commonwealth in which he is a shareholder, shall forfeit one-half of the par value of the shares so transferred, issued to or owned by him in the stock of such corporation to the use of the city or town in which he resides.

False returns or lists to assessors.
1869, 190.
P. S. 11, § 29.
112 Mass. 218.
134 Mass. 432.
137 Mass. 273.

SECTION 32. Whoever, with intent to defeat or evade the provisions of law as to the assessment or payment of taxes, delivers or discloses to an assessor or assistant assessor a false or fraudulent list, return or schedule of property, as and for a true list of his estate not exempt from taxation, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

SECTION 33. Keepers of taverns and boarding houses and masters and mistresses of dwelling houses, shall, upon application of an assessor of the city or town in which their house is situated, give the names of all persons residing therein who are liable to be assessed for taxes. Every such keeper, master or mistress refusing to give such information, or knowingly giving false information, shall be punished by a fine of twenty dollars for each offence.

Refusal, etc., of information by keepers of taverns, etc.
1837, 176.
G. S. 11, § 21.
P. S. 11, § 30.
137 Mass. 273.

DUTY AND MANNER OF ASSESSING TAXES.

SECTION 34. When a state tax is to be assessed, the treasurer and receiver general shall send his warrants for the assessment thereof by mail to the assessors of the several cities and towns.

1867, 166. P. S. 11, § 31.

Treasurer and receiver general to send his warrants.
R. S. 7, § 14.
G. S. 11, § 17.

SECTION 35. The assessors shall assess, according to the provisions of this chapter, state taxes for which they receive such warrants, county taxes duly certified to them, city or town taxes voted by their respective cities or towns and all taxes duly voted and certified by fire and other districts therein.

12 Met. 178. 117 Mass. 469. 119 Mass. 77. 126 Mass. 476.

Assessment of taxes pursuant to this chapter.
1785, 50, §§ 4, 8.
1821, 107, § 7.
R. S. 7, § 16.
G. S. 11, § 18.
1870, 332, § 2.
P. S. 11, § 32.

SECTION 36. Assessors of cities and towns in which a national bank or banking association is located shall, for the purpose of ascertaining the rate at which taxes shall be assessed, omit from the valuation upon which the rate is to be based the value of all shares held by non-residents of said cities and towns, and no tax of any city or town shall be invalidated by reason of any excess, in consequence of the provisions of this section, of the amount of such tax over the amount to be raised.

Rate of taxation, how ascertained in places having national banks.
1868, 349, § 5.
1871, 390, § 4.
1872, 321, § 13.
1873, 315, § 4.
P. S. 11, § 33.
101 Mass. 575.

SECTION 37. The assessors shall annually assess taxes to an amount not less than the aggregate of all amounts appropriated, granted or lawfully expended by their respective cities or towns since the last preceding annual assessment and not provided for therein, of all amounts which are required by law to be raised by taxation by the said cities or towns during said year and of all amounts necessary to satisfy final judgments against the said cities or towns; but such assessments shall not include liabilities for the payment of which cities or towns have lawfully voted to contract debts. The assessors may deduct the amount of all the estimated receipts of their respective cities or towns, except from loans or taxes, which are lawfully applicable to the payment of the expenditures of the year from the amount required to be assessed; but such deduction shall not exceed the amount of such receipts during the preceding year.

Amount of annual assessment. Deductions.
1875, 209, § 1.
P. S. 11, § 34.
114 Mass. 592.

SECTION 38. The assessors of a city or town owing debts incurred to obtain funds for subscriptions for the capital stock and securities of a railroad corporation shall annually assess, in addition to the other amounts required by law, an amount sufficient to pay the excess of such interest payable by such city or town, over any income received from such stock or securities.

—to include interest on debt for railroad subscriptions.
1876, 133, § 3.
P. S. 11, § 35.

Penalty on assessors for neglect of duty. Appointment of substitutes. 1785, 50, § 4. R. S. 7, §§ 17, 18. G. S. 11, § 19. P. S. 11, § 36.

SECTION 39. If the assessors neglect to assess a state, county, town or district tax required by law, each assessor so neglecting shall forfeit not more than two hundred dollars; and the commissioners of the respective counties shall forthwith appoint other persons to assess such taxes who shall take the same oath, perform the same duties and be liable to the same penalties as assessors of cities and towns.

Liability of town, etc., to action for tax not assessed. 1831, 64, §§ 2, 3. R. S. 8, § 37. G. S. 11, § 20. P. S. 11, § 37.

SECTION 40. If within five months after the receipt of a warrant from the treasurer and receiver general or of a certificate from the county commissioners requiring the assessment of a tax, it is not assessed and certified as required by law, the amount of the tax may be recovered of the city or town where the neglect occurs in an action of contract by the treasurer and receiver general or the treasurer of the county respectively.

NOTICES AND LISTS.

Notice of assessment and lists of property. 1785, 50, § 9. R. S. 7, § 19. G. S. 11, § 22. 1877, 160, § 1. P. S. 11, § 38. 1882, 175, § 2; 217, §§ 1, 4. 1888, 323. 12 Met. 211. 8 Cush. 55. 8 Gray, 511. 1 Allen, 199. 100 Mass. 272. 101 Mass. 89. 114 Mass. 224. 131 Mass. 424. 135 Mass. 566. 137 Mass. 266. 154 Mass. 147. 160 Mass. 217. 166 Mass. 298.

SECTION 41. Assessors, before making an assessment, shall give seasonable notice thereof to the inhabitants of their respective cities and towns. Such notice shall be posted in one or more public places in their cities and towns or shall be given in some other sufficient manner, and shall require the inhabitants to bring in to the assessors, before a date therein specified, true lists of all their polls and personal estate not exempt from taxation, and may or may not require them to include therein their real estate which is subject to taxation. It shall also require all persons and corporations, except corporations making returns to the insurance commissioner as required by section nineteen of chapter one hundred and eighteen, to bring in to the assessors, before a date therein specified, which shall not be later than the first day of July then following unless the assessors, for cause shown, extend the time to the first day of August, true lists of all real and personal estate held by them, respectively, for literary, benevolent, charitable or scientific purposes on the preceding first day of May or, at the election of such corporation, on the last day of its financial year last preceding said first day of May, and to state the amount of receipts and expenditures for said purposes during the year last preceding said days. The notice shall contain the provisions of section forty-five.

Form of lists. 1882, 217, § 3. 1894, 294.

SECTION 42. The tax commissioner shall annually prepare instructions for bringing in the lists required by the preceding section and shall prescribe forms therefor so arranged that the statement of the person bringing it in will include all assessable property held by him, and the assessors shall furnish blank lists containing such instructions and forms to any person liable to taxation. The tax commissioner shall also cause forms for the lists and statements required by the preceding section relative to property held for literary, benevolent, charitable or scientific purposes to be printed and distributed to assessors.

— to be verified by oath. 1785, 50, § 9.

SECTION 43. The assessors shall in all cases require a person bringing in a list to make oath that it is true. The oath may be

administered by any of the assessors or by their secretary or head clerk. If the person bringing such list is absent from the place in which the tax is to be assessed during the whole period when such oath may be made, it may be administered by a notary public, whose jurat shall be duly authenticated by his seal.

R. S. 7, § 20. G. S. 11, § 23. P. S. 11, § 39. 1891, 381. 1 Allen, 199. 101 Mass. 89. 131 Mass. 424.

SECTION 44. Such lists shall be open to the inspection of the assessors, their assistants and clerks and of the tax commissioner and his deputy, but so much of the lists as shows the details of the personal estate to that of no other person except by the order of a court. The lists shall be preserved by the assessors until the tax commissioner orders them to be destroyed.

Inspection of lists. 1898, 507, § 1.

SECTION 45. A mortgagor or mortgagee of real estate may bring in to the assessors of the city or town in which it lies, within the time prescribed by the notice under section forty-one, a statement under oath of the amount secured thereon or on each separate parcel thereof, with the name and residence of every holder of an interest therein as mortgagor or mortgagee. If such property is situated in two or more places, or if a recorded mortgage includes two or more estates or parts of an estate as security for one sum, such statement shall include an estimate of the interest of the mortgagee in each estate or part of an estate. The assessors shall, from such statement or otherwise, ascertain the proportionate interests of the mortgagor or mortgagee respectively in said estates, and shall assess the same accordingly. If, in any year, such statement is not brought in, the tax for that year on such real estate shall not be invalid merely for the reason that the interest of the mortgagee therein has not been assessed to him.

Returns by mortgagor or mortgagee. 1882, 175, § 1.

SECTION 46. They shall receive as true, except as to valuation, the list brought in by each person, unless, on being thereto required by the assessors, he refuses to answer on oath all necessary inquiries as to the nature and amount of his property.

Lists to be taken as true, unless. 1785, 50, § 9. R. S. 7, § 22. G. S. 11, § 25.

P. S. 11, § 40. 8 Cush. 64. 112 Mass. 218. 134 Mass. 431.
12 Met. 211. 10 Allen, 100. 131 Mass. 424. 166 Mass. 298.

SECTION 47. They shall ascertain as nearly as possible the particulars of the personal estate, and of the real estate in possession or occupation, as owner or otherwise, of any person who has not brought in such list, and shall estimate its just value, according to their best information and belief.

Estimate of value, in default of list. 1785, 50, § 1. R. S. 7, § 23. G. S. 11, § 27. P. S. 11, § 41. 8 Cush. 63.

2 Allen, 594. 130 Mass. 565. 137 Mass. 270. 152 Mass. 372.

SECTION 48. Such estimate shall be entered in the valuation book, and, except as provided in sections forty-one and seventy-four, shall be conclusive upon any person who has not seasonably brought in a list of his estate, unless he can show a reasonable excuse for the omission.

— to be conclusive, when. 1785, 50, § 9. R. S. 7, § 24. G. S. 11, § 28. P. S. 11, § 42. 4 Met. 181. 5 Cush. 97.

8 Cush. 63.

SECTION 49. In making such estimate the assessors shall specify the amount of each class of personal property mentioned in clauses eight, nine, ten and eleven, in section sixty, and enter the same upon the books furnished under section fifty-eight. An error or over-estimate of any class shall not be taken into account in determining

— of personalty, how made and entered. 1879, 72, § 1. P. S. 11, § 43. 137 Mass. 270. 170 Mass. 356.

whether a person is entitled to an abatement, but only the aggregate amount of such estimates.

Last assessment on executor, etc., to be deemed the valuation in default of list.
1878, 189, § 3.
P. S. 11, § 44.
154 Mass. 146.

SECTION 50. After personal property has been legally assessed in any city or town to an executor, administrator or trustee, an amount not less than that last assessed by the assessors of such city or town in respect of such property shall be deemed to be the sum assessable, until a true list of such property is brought in to the assessors in accordance with the provisions of section forty-one.

ASSESSMENT OF TAXES.

Valuation.
1785, 50, § 1.
R. S. 7, § 24.
1853, 319, § 1.
G. S. 11, § 24.
P. S. 11, § 45.
1889, 115.
4 Gray, 254.
152 Mass. 372.
163 Mass. 283.

SECTION 51. The assessors of each city and town shall at the time appointed therefor make a fair cash valuation of all the estate, real and personal, subject to taxation therein, and, in cities, the assessors may, in any year, divide any ward into convenient assessment districts.

State, county and town taxes in one assessment.
1785, 50, § 14.

SECTION 52. The assessors may include state, county and town taxes, or any two of them, in the same assessment.

1823, 138, § 2. R. S. 7, § 25. G. S. 11, § 29. P. S. 11, § 46.

County and city taxes in Boston.
1821, 109, § 13.
R. S. 7, § 26; 14, § 34.
G. S. 11, § 30.
P. S. 11, § 47.
21 Pick. 64.

SECTION 53. In the city of Boston all taxes assessed for county or city purposes may be assessed separately as county taxes and as city taxes, or under the name of city taxes only, as the city council shall direct. The city of Chelsea and the towns of Revere and Winthrop shall not be taxed for county purposes.

Rate of taxation in cities.
1885, 178, § 1; 312, § 1.
1887, 281.
1893, 247, 445.
1900, 399.
1901, 264.

SECTION 54. The taxes assessed on property exclusive of the state tax, county tax and sums required by law to be raised on account of the city debt shall not in any year exceed twelve dollars in any city on every one thousand dollars of the assessors' valuation of the taxable property therein for the preceding year, said valuation being first reduced by the amount of all abatements allowed thereon previous to the thirty-first day of December in the year preceding said assessment, subject to the following provisions: — If the city council of a city which contains less than one hundred thousand inhabitants according to the last preceding national or state census so determines, the average of the assessors' valuation of the taxable property therein for the preceding three years, said valuation for each year being first reduced by the amount of all abatements allowed thereon previous to the thirty-first day of December in the year preceding said assessment, shall be used to determine said limit of taxation instead of said assessors' valuation of the preceding year. In the city of Boston, and in all cities which contain one hundred thousand inhabitants or more according to the census aforesaid, said average shall be so used. In the city of Boston, said taxes shall not exceed ten and one-half dollars instead of twelve dollars as aforesaid. Any order or appropriation requiring a larger assessment than is herein limited shall be void. The provisions of this section shall not affect any existing exemption from the operation of the corresponding provisions of earlier laws.

SECTION 55. The assessors may, for the purpose of avoiding fractional divisions of the amount to be assessed in the apportionment thereof, add to that amount not more than five per cent thereof, although the limit of taxation may by such overlay be exceeded. 1893, 445. 126 Mass. 97.

Overlay of taxes. 1785, 50, § 11. 1828, 143, § 4. R. S. 7, § 28. G. S. 11, § 32. P. S. 11, § 49. 1887, 226.

SECTION 56. The assessors shall make, upon the books furnished under the provisions of section fifty-eight, a list of the valuation and the assessment thereon, in the following manner: — In separate columns the valuation of the stock in trade of each person, the number and value of his live stock and the valuation of machinery used in manufacturing establishments. In another column marked "All other ratable estate" the aggregate valuation of all the other personal estate shall be entered. The total amount of the taxable personal property shall be shown, but without other detail or specification than is provided herein. Before the taxes are committed for collection they shall deposit the books, or an attested copy thereof, in their office or, if there is no office, with their chairman, for public inspection.

Assessors to make valuation list in books, and deposit copy in office. 1785, 50, § 8. 1823, 139, § 3. R. S. 7, § 29. G. S. 11, § 33. 1861, 167. P. S. 11, § 50. 1888, 307. 1898, 507, § 2. 2 Gray, 298. 2 Allen, 594. 102 Mass. 148. 127 Mass. 505.

SECTION 57. The first part of the list shall exhibit the valuation and assessment of the polls and estates of the inhabitants assessed: the second part shall exhibit the valuation and assessment of the estates of non-resident owners, and shall contain in separate columns, the names of the non-resident owners of the property assessed, or such description of them as can be given, their places of abode, if known, the description of their estate, the true value of such estate, and the tax thereon.

List to exhibit valuation of residents and non-residents. 1828, 143, § 5. R. S. 7, § 30. G. S. 11, § 34. 1861, 167. P. S. 11, § 51. 21 Pick. 64. 16 Gray, 293. 2 Allen, 594. 102 Mass. 151. 151 Mass. 228.

SECTION 58. The secretary of the commonwealth shall provide each city and town, on or before the first day of May annually, suitable books for the use of the assessors in the assessment of taxes, which shall contain blank columns, with uniform headings for a valuation list, and blank tables for aggregates, in the following form: — 1890, 242, § 2. 1891, 65. 1898, 507, § 2.

Secretary of commonwealth to furnish books to assessors. 1861, 167, § 1. 1879, 72, § 2. P. S. 11, § 52. 1883, 41, § 1. 1887, 86, § 2.

VALUATION LIST FOR THE OF MAY 1, 19 .

Form of valuation list.

NAMES AND RESIDENCES OF PERSONS ASSESSED. (*Give street and number of residence.*)	Number of taxable polls.	Total cash tax on polls.	Value of each person's whole stock in trade.	Value of machinery used in manufacturing establishments.	Number of live stock, each kind specified separately.	Value of each kind of live stock.	Value of all other ratable personal estate in one item.	Aggregate of each person's ratable personal estate.	Total tax on personal estate.

Buildings of all kinds, described by naming their uses.	Value of buildings, exclusive of land.	Description, by name or otherwise, of each and every lot of land owned by each person.	Number of acres or feet in each lot of land.		Value of same.	Superficial feet of wharf.	Value of same.	Aggregate value of real estate.	Total tax on real estate.	Total cash tax on polls, personal and real estate.
			Acres.	Feet.						

TABLE OF AGGREGATES.

Form of table of aggregates.

FOR THE OF OF POLLS, PROPERTY, TAXES, ETC., AS ASSESSED MAY 1, 19 .

Number of residents assessed on property.	Number of non-residents assessed on property.	Number of persons assessed.	Number of male polls assessed.	Tax on each male poll.	Value of assessed personal estate.	Value of assessed real estate.	Total valuation of assessed estate May 1, .
Individuals.	Individuals.	† On property.			Excluding resident bank stock.	Buildings, excluding land.	
* All others.	* All others.	For poll tax only.			Resident bank stock.	Land, excluding buildings.	
Total.	Total.	Total.			Total.	Total.	

* Firms, corporations, associations, institutions, trustees, etc.
† On property; the total of the first two columns.

Tax for state, county and city or town purposes, including overlayings.		Rate of total tax per $1,000.	Number of horses assessed.	Number of cows assessed.	Number of sheep assessed.	Number of neat cattle, other than cows, assessed.	Number of swine assessed.	Number of dwelling-houses assessed.	Number of acres of land assessed.	Number and value of fowl assessed.
Dollars.	Cts.									
On personal estate.										Number.
On real estate.										Value.
On polls.										
Total.										

How blanks in list shall be filled.
1861, 167, § 2.
1879, 72, § 1.
P. S. 11, § 53.
1883, 41, § 2.
1898, 507, § 2.
127 Mass. 502.
138 Mass. 529.
143 Mass. 299.
151 Mass. 227.
152 Mass. 372.

SECTION 59. The assessors shall enter in the books so furnished the valuation and assessment of the polls and estates of the inhabitants assessed, as directed in the headings of the various columns and as follows: —

Stock in trade shall include all goods, wares and merchandise at home or abroad, of ratable estate, whether paid for or otherwise. Machinery shall include steam engines.

In cotton and linen factories state number of spindles and looms used in each.

In woollen factories state number of sets of cards used in each.

State the value of each building described including therein water-wheels but excluding land and water power and machinery used in the building.

In description of lots of land state the number of quartz-sand beds, stone quarries and ore beds therein.

Assessors to fill up table of aggregates and deposit copy with secretary of commonwealth annually.
1861, 167, § 3.
1864, 210, § 2.
1879, 72, § 2.
P. S. 11, § 54.
1885, 106.
1886, 56.
1887, 86, § 1.
1890, 242, § 1.
1891, 65.

SECTION 60. The assessors shall fill up the table of aggregates by an enumeration of the necessary items included in the lists of valuation and assessments required by law, and shall annually, on or before the first day of October, deposit in the office of the secretary of the commonwealth an attested copy of the same, containing, — First. The number of residents assessed on property, specifying the number of individuals and the number of firms, corporations, associations, institutions, trustees, and so forth. Second. The number of non-residents assessed on property, specifying the number of individuals and the number of firms, corporations, associations, institutions, trustees, and so forth. Third. The whole number of persons assessed, specifying the number assessed for a tax on property and the number assessed for a poll tax only. Fourth. The number of polls assessed. Fifth. The tax on each poll. Sixth. The value of personal estate assessed, specifying the value of the same excluding resident bank stock, and the value of resident bank stock. Seventh. The value of real estate assessed, specifying the value of buildings exclusive of land and of land exclusive of buildings. Eighth. The total valuation of assessed estate in the city or town. Ninth. The tax for state, county and city or town purposes, including overlayings, specifying the amount assessed on personal estate, on real estate and on polls. Tenth. The rate of total tax per one thousand dollars. Eleventh. The number of horses assessed. Twelfth. The number of cows assessed. Thirteenth. The number of sheep assessed. Fourteenth. The number of neat cattle, other than cows, assessed. Fifteenth. The number of swine assessed. Sixteenth. The number of dwelling-houses assessed. Seventeenth. The number of acres of land assessed. Eighteenth. The number and value of fowl assessed.

The city of Boston may deposit said copy in the office of the secretary annually on or before the first day of November.

—triennially to deposit with the secretary of the commonwealth copies of valuation books.
1861, 167, § 3.
1864, 210, § 1.
P. S. 11, § 55.

SECTION 61. The assessors of cities and towns, except the city of Boston, shall, on or before the first day of October in the year nineteen hundred and four and in every third year thereafter, deposit in the office of the secretary of the commonwealth, in books to be by him provided for the purpose, a copy of the assessors' valuation-books of those years, to be by them certified under oath. Said

1883, 91. 1894, 318.

assessors shall also annually, on or before the first day of October, and the assessors of the city of Boston, on or before the first day of November, in like manner deposit an attested copy of the table of aggregates required by the provisions of the preceding section.

Non-compliance with preceding sections. 1861, 167, § 5. P. S. 11, § 56. 1 Op. A. G. 73.]

SECTION 62. If the board of assessors of any city or town neglect to comply with the provisions of any of the three preceding sections, each assessor so neglecting shall forfeit not more than two hundred dollars.

Books supplied by secretary to contain what.

SECTION 63. The books provided by the secretary of the commonwealth for the use of the assessors shall contain a copy of this and of the seven preceding sections, and such certificates as are required by law to be signed by the assessors, with such explanatory notes as he considers necessary to secure uniformity of returns under the several headings. He shall annually compile and cause to be printed for the use of the general court the aggregate returns from the cities and towns arranged by counties, so as to exhibit the total valuation of the towns, cities, counties, and the commonwealth.

Annual compilation of table of aggregates. 1861, 167, § 4. P. S. 11, § 57.

Entry on valuation list of certain exempted property. 1874, 227, § 1. P. S. 11, § 58.

SECTION 64. The assessors shall enter upon the valuation list, in the appropriate columns, after the enumeration of the persons and estates liable to taxation therein contained, a statement and description of all the property and estate and the fair ratable value thereof, situated in their respective cities or towns, or which would be taxable there but for the provisions of the third, fourth and seventh classes of section five, with the names of the persons or corporations owning the same and the purpose for which it is used, which are exempted from taxation by the provisions of law aforesaid, with a reference to the law by which such exemption is allowed.

Oath of assessors to valuation list. 1785, 50, § 5. R. S. 15, § 55. 1853, 319, § 2. G. S. 11, § 36. P. S. 11, § 59.

SECTION 65. The assessors, or other persons authorized to assess the taxes in a city or town, shall, at the end of said valuation list, subscribe and take the following oath: —

> We the assessors, (or other persons so authorized, as the case may be,) of , do severally and solemnly swear that the foregoing list is a full and true list of the names of all persons known to us, who are liable to taxation in , (here insert the name of the city or town,) during the present year, and that the real and personal estate contained in said list, and assessed upon each person in said list, is a full and accurate assessment upon all the property of each person, liable to taxation, at its full and fair cash value, according to our best knowledge and belief.

Penalty for neglect to take oath. 1857, 306, §§ 1, 2. G. S. 11, § 37. P. S. 11, § 60.

SECTION 66. An assessor or other person assessing taxes in a city or town who omits to take and subscribe said oath shall be punished by a fine of ten dollars; but such omission shall not render invalid a tax otherwise legally assessed.

COLLECTOR'S LIST AND WARRANT.

Tax list to be committed to collector, but not effectual until given and approved. 1785, 50, § 6; 70, §§ 1, 3.

SECTION 67. The assessors shall, within a reasonable time, commit the tax list with their warrant to the collector of taxes: or, if no collector has been chosen, to a constable, or, if there is no constable, to the sheriff or his deputy, for collection; but the assessors

of a town shall not commit a tax list to the collector until the bonds of such collector and of the town treasurer have been given and approved as required by law. 1815, 130, § 4. R. S. 7, §§ 32, 34. G. S. 11, § 38. 1879, 157, § 1. P. S. 11, § 62.

99 Mass. 472. 124 Mass. 343. 13 Met. 85. 130 Mass. 563. 6 Gray, 387, 502. 140 Mass. 389.

SECTION 68. The tax list committed to the collector shall be, in substance, as follows: — Tax list, contents and form. 1828, 143, § 6. R. S. 7, § 31. G. S. 11, § 35. 1877, 235, § 1. P. S. 11, § 61. 9 Pick. 97. 2 Gray, 298.

Names and Residences. (*Give street and number of residence.*)	No. of Polls.	Poll Tax.	Tax on Real Estate.	Tax on Personal Property.	Total.	Time when paid.

NON-RESIDENTS.

Names.	Residences, if known.	Tax.

SECTION 69. The warrant shall specify the duties of the collector as prescribed by law in the collection of taxes, the times when and the person to whom he shall pay them, shall be substantially in the form heretofore used and need not be under seal. Warrant, contents and form. 1785, 50, § 6; 70, § 1. R. S. 7, §§ 32, 33. G. S. 11, § 39. P. S. 11, § 63.

1 Met. 328. 6 Met. 345. 13 Met. 85. 99 Mass. 472. 127 Mass. 502. 139 Mass. 388. 140 Mass. 389.

SECTION 70. If a warrant issued for the collection of taxes is lost or destroyed, the assessors may issue a new warrant therefor, which shall have the same force and effect as the original warrant. New warrant to issue on loss, etc., of original; effect. 1799, 83. R. S. 8, § 51.

G. S. 11, § 40. P. S. 11, § 64.

DISCOUNT AND INTEREST ON TAXES.

SECTION 71. Towns at their annual meetings and city councils of cities may allow discounts to persons making voluntary payment of their taxes within such periods of time as they determine; and the assessors shall, when they commit their warrant to the collector, post in one or more public places in the city or town notices of the rates of discount, and the collector shall make such discount. Discounts. 1815, 130, §§ 2, 4. R. S. 7, §§ 35, 36. G. S. 11, §§ 41, 42. P. S. 11, §§ 65, 66. 13 Gray, 476. 2 Allen, 594.

SECTION 72. If a city, a town or fire, water supply or improvement district fixes a time within which taxes assessed therein shall be paid, such city by its city council, and such town or district at the meeting when money is appropriated or raised, may vote that on all taxes remaining unpaid after a certain time interest shall be paid at a specified rate, not exceeding six per cent a year, and such interest shall be added to and be a part of such taxes. Interest; city and town taxes. 1873, 225, § 1. 1878, 185, § 1. 1879, 74. P. S. 11, §§ 67, 68. 1900, 168. 146 Mass. 476.

ABATEMENTS.

SECTION 73. A person aggrieved by the taxes assessed upon him may, within six months after the date of his tax bill, apply to the assessors for an abatement thereof; and if they find that he is taxed at more than his just proportion, or upon an assessment of any of his property in excess of its fair cash value, they shall make a reasonable abatement. A tenant of real estate paying rent there- Abatements. 1785, 50, § 10. R. S. 7, §§ 37, 41. G. S. 11, §§ 43, 47. 1877, 160, § 2. P. S. 11, §§ 69, 74. 1888, 315. 6 Pick. 98. 12 Pick. 7. 21 Pick. 64. 5 Cush. 93.

8 Cush. 55, 56.
2 Gray, 494.
8 Gray, 509.
13 Gray, 321.
3 Allen, 546.

for and under obligation to pay more than a moiety of the taxes thereon may apply for such abatement.

12 Allen, 612.
13 Allen, 119.
102 Mass. 348.
109 Mass. 270.
114 Mass. 224.
125 Mass. 348.
130 Mass. 144, 478.
148 Mass. 513.
150 Mass. 237.
152 Mass. 372, 596.
155 Mass. 313.
159 Mass. 385.
166 Mass. 298, 401, 216.
174 Mass. 396.
175 Mass. 293.

Conditions.
1785, 50, § 9.
R. S. 7, § 40.
1853, 319, § 3.
1857, 306, § 3.
G. S. 11, § 46.
1865, 121.
1877, 160, § 1.
P. S. 11, §§ 38, 72, 73.
1888, 315.
1894, 354.
4 Pick. 399.
5 Cush. 97.
6 Cush. 477.
5 Gray, 365.
8 Gray, 509.
1 Allen, 199.
3 Allen, 546.
101 Mass. 87.
112 Mass. 218.
131 Mass. 424.
137 Mass. 272.
151 Mass. 228.
152 Mass. 374.
155 Mass. 313.
166 Mass. 216.
167 Mass. 517.
170 Mass. 568.
176 Mass. 384.

SECTION 74. A person shall not have an abatement, except as otherwise provided, unless he has brought in to the assessors the list of his estate as required by section forty-one. An executor, administrator or trustee after three years from the date of his appointment, or a tenant of real estate paying rent and under obligation to pay more than a moiety of the taxes thereon, may have an abatement although no such list was brought in. If such list is not filed within the time specified in the notice required by section forty-one, no part of the tax assessed upon the personal estate shall be abated unless the applicant shows to the assessors a reasonable excuse for the delay or unless such tax exceeds by more than fifty per cent the amount which would have been assessed upon such estate if the list had been seasonably brought in, and in such case only the excess over such fifty per cent shall be abated. If the applicant was not required by said notice to include his real estate in said list, and has not done so, he shall, if he seeks an abatement of the tax on his real estate, file with his application a list, verified as provided in section forty-three, of his real estate, with an estimate of the fair cash value of each parcel.

Costs.
R. S. 7, § 38.
G. S. 11, § 44.

SECTION 75. A person applying for an abatement shall pay the legal costs which accrue before it is made. P. S. 11, § 70.

Notice.
1890, 127, § 6.

SECTION 76. The assessors shall, within ten days after their decision upon an application for an abatement, give written notice thereof to the applicant.

Appeal to county commissioners.
1785, 50, §§ 9, 10.
R. S. 7, §§ 39, 40.
1853, 319, § 3.
1857, 306, § 3.
G. S. 11, §§ 45, 46.
P. S. 11, §§ 71, 72.
1882, 218.
8 Cush. 55.
6 Allen, 131.
114 Mass. 224.
152 Mass. 372, 596.
155 Mass. 313.
159 Mass. 385.

SECTION 77. A person aggrieved by the refusal of assessors to abate a tax, may, within thirty days after receiving the notice provided in the preceding section, appeal therefrom by filing a complaint with the clerk of the county commissioners, or of any board exercising the powers of such commissioners, for the county in which the property taxed is situated, and if upon a hearing the board finds that the property has been overrated, it shall make a reasonable abatement and an order as to costs. If the list required to be brought in to the assessors was not brought in within the time specified in the notice required by section forty-one, the tax shall not be abated unless the appellate board finds that there was good cause for the delay or unless the assessors have so found as provided in section seventy-four. No costs shall be allowed to a complainant who has failed to file a list as required by law.

To superior court.
1890, 127, §§ 1, 2, 4.
152 Mass. 594.
155 Mass. 313.
163 Mass. 284.
175 Mass. 257.

SECTION 78. A person aggrieved as aforesaid may, instead of pursuing the remedy provided in the preceding section, but subject to the same conditions, appeal to the superior court for the county in which the property taxed is situated by entering a complaint in said court on the first return day after the expiration of thirty days from the giving of the notice required by section seventy-six, which shall be heard and determined as other court causes by the court sitting without a jury.

SECTION 79. The complaint shall be heard at the first sitting of the court in such county for the trial of civil causes after its entry, unless, at the request of the respondent, a further time is allowed by the court. The superior court or the supreme judicial court, if the case shall be carried thereto, shall at the request of the city or town advance the case so that it may be heard and determined with as little delay as possible.

Entry of appeal. Advancement for speedy trial. 1890, 127, § 4. 152 Mass. 596. 155 Mass. 313, 316. 175 Mass. 257.

SECTION 80. The court may appoint a commissioner to hear the parties and report the facts, with or without the evidence. Such report shall be prima facie evidence of the facts therein found. The court shall allow such commissioner a reasonable compensation which shall be paid by the county.

Commissioners to hear facts. 1890, 127, § 5. 175 Mass. 257.

SECTION 81. If, upon a hearing, the court finds that the complainant has complied with all the provisions of law and has paid the tax for which he has been assessed, it may grant him a reasonable abatement, and shall render judgment against the city or town for the amount thereof, and for all charges and interest on the amount of the abatement from the date of the payment of the tax. The court may also, if the complainant has filed a list of his estate as required by section forty-one, allow him costs in its discretion. If no abatement is granted, judgment shall be rendered for the city or town for its expenses and costs, which shall be taxed by the court.

Abatement or judgment for appellant if taxes have been paid. Costs. 1890, 127, § 3. 1895, 75. 6 Allen, 131. 155 Mass. 313, 316. 175 Mass. 257.

SECTION 82. A person whose tax has been abated shall, if the tax has been paid, be reimbursed by the city or town to the amount of the abatement allowed, with interest from the time of payment of said tax and all charges paid therewith except legal costs paid as provided in section seventy-five. 13 Gray, 223. 3 Allen, 550. 159 Mass. 385.

Reimbursement after abatement. 1785, 50, § 10. R. S. 7, § 42. G. S. 11, § 48. P. S. 11, § 75. 1894, 207.

SECTION 83. A person whose tax has been abated shall be entitled to a certificate thereof from the assessors, clerk of the commissioners or other proper officer. G. S. 11, § 49. P. S. 11, § 76. 159 Mass. 385.

Certificate of abatement to be given by assessors. R. S. 7, § 43.

SECTION 84. If a collector is satisfied that a poll tax or tax upon personal property, or any portion of said tax, committed to him or to any of his predecessors in office for collection, cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, he shall notify the assessors thereof in writing, under oath, stating the reason why such tax cannot be collected. The assessors, after due inquiry, may abate such tax or any part thereof, and shall certify such abatement in writing to the collector; and said certificate shall discharge the collector from further obligation to collect the tax so abated. But no poll tax shall be abated within the calendar year in which it is assessed.

Abatement of uncollectible taxes, and allowance to collector therefor. 1878, 77. 1879, 43. P. S. 11, § 77.

Poll tax not abatable in year of assessment.

OMITTED ASSESSMENTS.

SECTION 85. If the real or personal estate of a person, to an amount not less than one hundred dollars and liable to taxation, has been omitted from the annual assessment of taxes in a city or town, the assessors shall between the fifteenth and twentieth days of De-

Assessment of estates omitted from annual assessment. 1868, 320. 1873, 272.

P. S. 11, § 78.
1886, 85.
1888, 362.
130 Mass. 561.
137 Mass. 272.

cember next ensuing assess such person for such estate. The taxes so assessed shall be entered on the tax list of the collector who shall collect and pay over the same. Such additional assessment shall not render the tax of such city or town invalid although its amount, in consequence thereof, shall exceed the amount authorized by law to be raised.

RE-ASSESSMENT OF TAXES.

Re-assessment of taxes.
1859, 118, § 1.
G. S. 11, § 53.
1881, 304, § 7.
P. S. 11, § 79.
13 Allen, 269.
99 Mass. 32, 208.
102 Mass. 73.
112 Mass. 535.
121 Mass. 177.
126 Mass. 97.
127 Mass. 502.
129 Mass. 378.
137 Mass. 274.
149 Mass. 270.
165 Mass. 287.

SECTION 86. Every tax except a poll tax, which is invalid by reason of any error or irregularity in the assessment and which has not been paid, or which has been recovered back, may be re-assessed by the assessors for the time being, to the just amount to which, and upon the estate or to the person to whom, it ought at first to have been assessed, whether such person has continued an inhabitant of the same city or town or not. An alienation of the real estate assessed shall not, subject to the provisions relative to a lien contained in section thirty-five of chapter thirteen, defeat a re-assessment, if made within two years after the tax first assessed was committed to the collector.

Collection of re-assessed taxes.
1870, 394.
P. S. 11, § 80.
102 Mass. 72.
149 Mass. 270.

SECTION 87. Taxes re-assessed under the provisions of the preceding section shall be committed to, and collected and paid over by, the collector for the time being, in the same manner as other taxes, except that the name of the person to whom they were originally assessed shall be stated in the tax list; and the bond of such collector shall apply to such re-assessed taxes.

APPORTIONMENT OF TAXES ON REAL ESTATE SUBSEQUENTLY DIVIDED.

Apportionment of tax on real estate divided after assessment.
1878, 182, § 1.
P. S. 11, § 81.

SECTION 88. If real estate is divided by sale, mortgage, upon a petition for partition or otherwise after a tax has been assessed thereon and such division has been duly recorded in the registry of deeds, the assessors at any time before said real estate has been sold for payment of taxes, upon the written request of the owner or mortgagee of any portion thereof, shall apportion said tax and the costs and interest accrued thereon upon the several parcels thereof, in proportion to the value of each, and only the portion of said tax, interest and costs so apportioned upon any such parcel shall continue to be a lien upon it; and the owners or mortgagees shall be liable only for the tax apportioned upon the parcel owned in whole or in part by them respectively.

Notice to persons affected by apportionment.
1878, 182, § 2.
P. S. 11, § 82.

SECTION 89. Assessors shall send notice of the request for such apportionment and of the time appointed therefor, by mail, to every person interested in said real estate whose address is known to them.

Appeal from apportionment.
1878, 182, § 3.
P. S. 11, § 83.

SECTION 90. A person aggrieved by any action of the assessors in making such apportionment may within seven days thereafter appeal in like manner as in case of an over-assessment, and the decision upon such appeal shall be final.

ILLEGAL ASSESSMENTS.

SECTION 91. If, by reason of an erroneous or illegal assessment or apportionment of taxes, a person is assessed more than his due proportion, the tax and assessment shall be valid except as to the illegal excess. 99 Mass. 208. 126 Mass. 97, 98. 127 Mass. 502. 151 Mass. 229.

Assessment of taxes valid except as to illegal excess. 1859, 118, § 4. G. S. 11, § 54. P. S. 11, § 84.

ADDITIONAL DUTIES OF ASSESSORS.

SECTION 92. When a person who is liable to be taxed for personal property changes his domicil, the assessors of the city or town to which he has removed shall forthwith require of the assessors of the city or town in which he was last taxed a written statement of any facts which will assist in determining the value of his personal estate, and also the amount for which he was last assessed therein, which information shall be furnished by said assessors. When the assessors of a city or town receive notice from the assessors of another city or town of the amount for which a person, who had been an inhabitant thereof, was last taxed on personal property, such notice or statement shall be filed in the office of the assessors requiring such information and shall be open to public inspection; and he shall not be assessed upon any less amount of personal estate than that for which he was last assessed, until he has brought in a list of his personal estate. Whoever neglects to perform any duty imposed upon him by the provisions of this section shall be punished by a fine of not less than fifty nor more than two hundred dollars.

Assessors to furnish information as to personalty of persons changing domicil. 1866, 170. 1881, 25. P. S. 11, § 85.

SECTION 93. Assessors shall annually, on or before the first Monday of August, return to the tax commissioner the names of all corporations, except banks of issue and deposit, having a capital stock divided into shares, chartered by the commonwealth or organized under the general laws for the purposes of business or profit and established in their respective cities and towns or owning real estate therein, and a statement in detail of the works, structures, real estate and machinery owned by each of said corporations and situated in such city or town, with the value thereof, on the first day of May preceding, and the amount at which the same is assessed in said city or town for the then current year. They shall also, at the same time, return to the tax commissioner the amount of taxes laid, or voted to be laid, within said city or town, for the then current year, for state, county and town purposes. If the assessors neglect to comply with the requirements of this section, each assessor so neglecting shall forfeit one hundred dollars.

Returns to tax commissioner of corporate property and amount of taxes laid. 1864, 208, § 1. 1865, 283, §§ 1, 14. P. S. 11, §§ 86, 87. 13 Allen, 391.

SECTION 94. If the assessors of a city or town ascertain that the aggregate valuation of such city or town has been diminished since the first day of May of the preceding year, they shall return with the table of aggregates, or with the books, which they are required by sections sixty and sixty-one to deposit in the office of the secretary of the commonwealth, a statement in writing, under oath, of the causes which in their opinion have produced such diminution. If the assessors neglect to comply with the requirements of this section, each assessor so neglecting shall forfeit not more than two hundred dollars.

Assessors to state cause of diminished valuations. 1864, 210, §§ 3, 4, 6. P. S. 11, §§ 88, 89.

Assessors to make returns to tax commissioner of exempted property, etc.
1874, 227, § 2.
1881, 284, § 4.
P. S. 11, § 90.
1882, 217, § 3.

SECTION 95. Assessors shall annually, on or before the first day of October, make and forward to the tax commissioner a statement showing the whole amount of exempted property entered upon the valuation lists of their respective cities and towns in accordance with section sixty-four, and the amount in each class, and stating separately the aggregate amount belonging to each of the four classes embraced in clause three of section five, a tabular statement of the statistics derived from the returns provided for in section eight, and such lists and statements required by section forty-two relative to real and personal property exempt from taxation under clause three of section five as have been received by them.

— to make returns to tax commissioner of assets and indebtedness of towns.
1870, 76.
P. S. 11, § 91.
1882, 133, § 2.

SECTION 96. Assessors of each city or town shall annually, on or before the first Monday of August, return to the tax commissioner the aggregate amount of its assets, and the amount of its indebtedness, for which notes, bonds or similar evidences of debt, the payment of which is not provided for by the taxation of the then current year, were outstanding on the first day of May then last preceding, with a concise statement of the various purposes for which such indebtedness was incurred, the amount incurred for each purpose and the amount of each sinking fund established. If in any case in which a sinking fund is required by law no sinking fund has been established, the return shall state whether action has been had under the provisions of section thirteen of chapter twenty-seven and the amount raised and applied thereunder for the year last preceding said first day of May.

— and to certify on request portions of tax assessed for state, county and town purposes.
1879, 299, § 2.
P. S. 11, § 93.
137 Mass. 273.

SECTION 97. Assessors shall, upon application to any one of them by a person assessed therein, give to him a certificate stating what portion of the whole amount of his tax is assessed as state tax, county tax and town tax, respectively; and in such case the collector shall receive and receipt for either of such taxes separately, or for all together, as may be desired by the tax payer; but the state tax assessed upon poll and property and the county tax so assessed, shall each constitute an entire and indivisible tax.

RESPONSIBILITY AND COMPENSATION OF ASSESSORS.

Liability of assessors.
1825, 138, § 5.
1833, 166.
R. S. 7, § 44.
G. S. 11, § 51.
1872, 310.
P. S. 11, § 94.

SECTION 98. Assessors shall not be responsible for the assessment of a tax assessed by them in pursuance of a vote for that purpose, certified to them by the clerk or other proper officer of a city, town or fire district, except for the want of integrity and fidelity on their own part.

4 Pick. 399. 4 Gray, 42. 97 Mass. 424. 119 Mass. 77.
5 Pick. 451, 498. 3 Allen, 410. 98 Mass. 469. 125 Mass. 553.
11 Met. 339. 4 Allen, 382. 99 Mass. 208.

Compensation.
1785, 50, § 2.
1834, 99.
R. S. 7, § 45.
1855, 224.
G. S. 11, § 52.
1873, 156.

SECTION 99. Each assessor shall be paid by his city or town two dollars and fifty cents a day for every whole day in which he is employed in that service, and such additional compensation as the city or town shall allow.

P. S. 11, § 95. 3 Met. 431. 3 Allen, 409. 4 Allen, 382. 129 Mass. 577.

APPORTIONMENT OF STATE TAX.

SECTION 100. The tax commissioner shall, before the first day of January in the year nineteen hundred and four and before the first day of January in every third year thereafter, prepare and report in print to the general court, within the first week of its then next succeeding session, an equalization and apportionment upon the several cities and towns, of the number of polls, the amount of property, and the proportion of every one thousand dollars of state or county tax, including polls at one-tenth of a mill each, which should be assessed upon each city and town.

Apportionment of state tax by tax commissioner. 1881, 163, § 1. P. S. 11, § 96.

SECTION 101. Said commissioner shall from time to time be supplied by the secretary of the commonwealth with the returns of assessors required by sections sixty and sixty-one. He shall cause abstracts to be prepared, showing the value above real estate and machinery locally taxed, of shares in corporations organized in this commonwealth, and national banks, held by residents of each city and town and not included in the local assessment. He may require from state, city and town officers such further returns and statements relative to the amount and value of taxable property in the several cities and towns as in his judgment may be necessary. He shall to the best of his judgment and discretion prepare said equalization and apportionment upon the basis of the returns and statements herein provided for and authorized.

Tax commissioner to be supplied with returns of assessors. To prepare abstracts, etc. 1881, 163, §§ 1, 2. P. S. 11, § 97.

Basis of apportionment.

CHAPTER 13.

OF THE COLLECTION OF TAXES.

SECTION 1. — Definitions.
SECTIONS 2–19. — Duties of Collectors.
SECTIONS 20–25. — Collection by Distress.
SECTIONS 26–31. — Collection by Imprisonment.
SECTIONS 32–34. — Collection by Suit.
SECTIONS 35–57. — Collection by Sale or Taking of Land.
SECTIONS 58–69. — Redemption.
SECTIONS 70–72. — Proceedings if Tax Title is Held Invalid.
SECTIONS 73, 74. — Lien of Co-Tenants.
SECTIONS 75–87. — Miscellaneous Provisions.

DEFINITIONS.

SECTION 1. Terms used in this chapter shall, unless other meaning is clearly apparent from the context, or unless they are inconsistent with the manifest intent of the legislature, be construed as follows:

"Collector" shall mean a person receiving a tax list and a warrant to collect the same.

"Publication" as applied to any notice, advertisement or other instrument, the publication of which is required by law, shall mean the act of printing it for three successive weeks in a newspaper pub-

Definitions. 1785, 70, § 7. R. S. 8, § 24. G. S. 12, § 28. 1879, 69. P. S. 12, § 30. 1888, 390, § 35. 1892, 168. 1899, 425, §§ 1, 2. 1900, 290. 1901, 108, 150.

lished in the city or town, if any, otherwise in the county, where the land or other property to which the notice or other instrument relates is situated. The last publication shall be made at least one week prior to the date stated for the occurrence of the event to which the publication relates.

"Registry of deeds" shall mean the registry of deeds for the county or district in which the land taxed lies.

"Service" as applied to any notice, summons, demand or other paper shall mean delivering it or a copy to the person for whom it is intended, or leaving it or a copy at his last and usual place of abode or of business, or sending it or a copy by mail postpaid addressed to him at his last and usual place of abode or of business or, if such notice, summons, demand or other paper relates to taxes upon land, posting it or a copy conspicuously in some convenient and public place in his precinct and sending a copy by mail postpaid addressed to him at the city or town in which such land lies. Such service shall be sufficient whether made by the collector of taxes holding office or by any predecessor.

The affidavit of the collector or deputy collector serving the notice, summons, demand or other paper of the manner of service shall be kept on file in the office of the collector, and shall be prima facie evidence that the same was so served.

DUTIES OF COLLECTORS.

Collection and payment over of taxes. Return thereof. R. S. 7, § 34; 8, §§ 1, 33. G. S. 12, § 1. P. S. 12, § 1. 1887, 110, § 4. 1888, 390, §§ 1, 6. 1897, 126, § 1. 126 Mass. 476. 127 Mass. 405.

SECTION 2. Every collector of taxes, constable, sheriff or deputy sheriff, receiving a tax list and warrant from the assessors, shall collect the taxes therein set forth, and pay over the same to the city or town treasurer according to the warrant, and shall make written return thereof with his tax list and of his doings thereon at such times as the assessors shall in writing require. In towns he shall, on or before the fifth day of each month, pay over to the town treasurer all money received by him during the preceding month on account of taxes.

Notice of tax to tax payer. 1877, 235, § 1. P. S. 12, § 2. 1888, 390, § 2. 1889, 334, § 1.

SECTION 3. The collector shall forthwith, after receiving a tax list and warrant, send notice to each person who is assessed, resident or non-resident, of the amount of his tax. If such notice is sent by mail, it shall be postpaid and shall be directed to the city or town in which the assessed person resided on the first day of May of the year in which the tax was assessed, and, if he resides in a city, it shall, if possible, be directed to the street and number of his residence. If he is assessed for a poll tax only, the notice shall be sent on or before the second day of September of the year in which the tax is assessed. An omission to send such notice shall not affect either the validity of a tax or of the proceedings for collecting it.

Collector to keep books of account. 1887, 110, § 2. 1888, 390, § 3. 1889, 334, § 2.

SECTION 4. He shall make and keep in the book containing the tax list committed to him by the assessors, against the name of every person assessed for a tax, entries showing the disposition thereof, whether re-assessed, abated or paid, and the date of such disposition.

Collector to keep cash book. 1887, 110, § 1. 1888, 390, § 4.

SECTION 5. He shall also keep a cash book, in which he shall enter all sums of money paid to him, as they are received, specifying the total amount of tax, abatements allowed, discount allowed, all interest charged, the total amount received and the date of receipt. He shall also enter therein the date and amount of every payment and disbursement made by him, and to whom paid, with such other matters as the city or town may require.

Account books, how provided. To be open to inspection. 1887, 110, § 3. 1888, 390, § 5. 1897, 126, § 2.

SECTION 6. All books kept by the collector shall be furnished by, and be the property of, the city or town, and shall at all reasonable times be open to examination by the auditor of such city or town or by any other agent thereof duly authorized for that purpose. The collector shall, upon demand by the selectmen, exhibit to them or to any persons whom they may designate at any time during ordinary business hours, the books, accounts and vouchers relating to taxes committed to him for collection and to his receipts and payments on account of taxes; and they, or the persons designated by them, shall have full opportunity to examine said books, accounts and vouchers, and to make copies and extracts therefrom.

Deposit of accounts, etc., by retiring, etc., collector with city or town clerk. 1892, 370, §§ 1, 4.

SECTION 7. A collector shall, within three months after his resignation of, or retirement or removal from, the office of collector, deposit with the clerk of the city or town in which he held such office all his accounts, records and papers, except his warrant, which relate to the assessment and collection of taxes in such city or town, and, when all the taxes which have been committed to him have been collected or abated, or, in any event, at the end of three years from the date of their commitment to him, he shall so deposit all such accounts, records and papers and his warrant.

—by executor, etc., of deceased collector. 1785, 46, § 5. 1791, 22, § 1. R. S. 8, § 41. G. S. 12, § 54. P. S. 12, § 82. 1888, 390, § 92. 1892, 370, § 3.

SECTION 8. The executor or administrator of a person who was or had been a collector shall, within three months after his appointment, deposit all the accounts, records, papers or unsettled tax lists which come into his possession, relating to the assessment and collection of taxes, with the clerk of the city or town to which they pertain; and any other person into whose possession, upon the death, resignation, retirement or removal of a collector from office such accounts, records, papers or unsettled tax lists may come, shall forthwith deposit them with the clerk of such city or town.

—in collector's office. 1892, 370, § 5.

SECTION 9. If the collector has an office for the deposit of records and the transaction of his official business, the accounts, records and papers otherwise required to be deposited with the city or town clerk shall be deposited in said office.

Demand for tax books and accounts, by whom made. 1892, 370, § 6.

SECTION 10. A city or town clerk, or collector, who shall have knowledge of any accounts, records or papers relating to taxes in his city or town which should be in his custody, shall demand them of any person having them.

Penalty for unlawful detention of tax accounts. 1892, 370, § 7.

SECTION 11. A collector, former collector or an executor or administrator of a deceased collector who refuses or neglects to perform any duties required by the four preceding sections, or any person having in his possession any such accounts, records or

papers, who, after demand made by the clerk or collector entitled by law to the custody thereof, wrongfully detains them, shall forfeit not more than five hundred dollars.

Penalty for failure of collector to pay over taxes or to exhibit accounts. 1897, 126, § 3.

SECTION 12. Every collector who fails monthly to pay over to the town treasurer the taxes collected by him, as required by section two, or who neglects or refuses to exhibit his books, accounts and vouchers to the selectmen when required by them, under the provisions of section six, shall be punished by a fine of not more than three hundred dollars.

Completion of taxes by collector after expiration of term. 1785, 70, § 8. R. S. 8, § 2. G. S. 12, § 2. 1862, 183, § 10. 1878, 266, § 13. 1881, 138, § 2. P. S. 12, §§ 3, 36, 47. 1888, 390, §§ 7, 29, 41, 55. 1889, 334, § 3. 1890, 331, § 2. 1894, 537, § 5. 102 Mass. 75. 119 Mass. 124.

SECTION 13. The collector shall, unless removed from office or unless his tax list has been transferred to his successor, complete the collection of the taxes committed to him, notwithstanding the expiration of his term of office. He shall be allowed the following charges and fees and no other, which after they have accrued, shall be severally added to the amount of the tax:

For an arrest, one dollar;

For a summons, twenty cents;

For a warrant to distrain or arrest, fifty cents;

For a copy of warrant and certificate under section twenty-three, one dollar;

For preparing advertisement of sale, fifty cents;

For advertisement of sale in newspapers, the cost thereof;

For posting notices of sale, fifty cents for each parcel of real estate seized or lot of goods distrained;

For distraining goods, one dollar and the cost thereof;

For selling goods distrained, the cost thereof;

For obtaining affidavit of disinterested person, one dollar;

For recording affidavit, the register's fees;

For preparing deed, two dollars;

For each hour's time actually expended in selling as certified by him under the provisions of section forty-nine, thirty cents;

For service of demand and notice under the provisions of section fifty-three, if served in the manner required by law for the service of subpœnas upon witnesses in civil cases, fifty cents and travel as allowed by chapter two hundred and four.

Demand for tax to be made. 1785, 70, § 2. R. S. 8, § 3. G. S. 12, § 3. P. S. 12, § 4. 1888, 390, § 8. 1889, 334, § 4. 1 Met. 328.

SECTION 14. The collector shall, before selling the land of a resident, or distraining the goods of any person, or arresting him for his tax, serve on him a statement of the amount thereof with a demand for its payment. If the heirs of a deceased person, copartners or two or more persons are jointly assessed, service need be made on only one of them. Such demand for the tax upon land may be made upon the person occupying the same upon the first day of May of the year in which the tax is assessed. If a mortgagee has given notice under the provisions of section thirty-six, such demand shall be served upon the mortgagee instead of the owner or occupant. No demand need be made on a non-resident owner of land, nor, except as herein provided, on a mortgagee.

Summons to precede demand, when.

SECTION 15. The collector may, before making a demand for the payment of a tax which is due from any person, serve a sum-

mons on him, stating therein the amount due and that unless the same, with twenty cents more for the summons, is paid within ten days, he will proceed to collect it according to law. 1888, 390, § 28. 1889, 334, § 8. 1890, 331, § 1.

SECTION 16. If the assessors are of opinion that the credit of a person taxed is doubtful or that he is about to leave the commonwealth, they may, by a special warrant, direct the collector forthwith, without demand or notice, to compel payment by distress or imprisonment, whether the tax is payable immediately or at a future day, by instalments or otherwise. 1888, 390, § 9. Collection from persons of doubtful credit. 1785, 70, § 2. 1815, 130, § 3. R. S. 8, § 12. G. S. 12, § 4. 1874, 238. P. S. 12, § 5.

SECTION 17. If a person claims the benefit of an abatement, he shall exhibit to the collector demanding his taxes the certificate of such abatement authorized by the provisions of section eighty-three of chapter twelve; and he shall be liable to pay all costs and officers' fees incurred before exhibiting such certificate. 9 Met. 503. Person claiming abatement to exhibit certificate thereof. R. S. 8, § 4. G. S. 12, § 5. P. S. 12, § 6. 1888, 390, § 10.

SECTION 18. If, in the assessors' lists or in their warrant and list committed to the collector, there is an error in the name of a person taxed, the tax assessed to him may be collected of the person intended to be assessed, if he is taxable and can be identified by the assessors. 7 Gray, 127. 12 Cush. 56. 97 Mass. 323. 127 Mass. 502. Collection if erroneous name in warrant. R. S. 8, § 5. G. S. 12, § 6. P. S. 12, § 7. 1888, 390, § 11. 6 Met. 474.

SECTION 19. After the delivery of a tax, including assessments for betterments or other purposes but not including a poll tax, to a collector for collection, the owner of the estate or person assessed or a person in behalf of said owner or person may tender to the collector not less than twenty-five per cent of the tax which shall be received, receipted for and applied toward the payment of the tax. If in any court it shall be determined that the tax is more than the amount so paid, judgment shall be entered for such excess and interest upon the amount thereof to the date of the judgment, and on the amount paid to the date of the payment, with costs if otherwise recoverable. The part payment authorized by this section shall not affect a right of tender, lien or other provision of law for the recovery of the amount of such tax, or interest or costs thereon, remaining due, but if the part payment is more than the tax, as finally determined, the excess, without interest, shall be repaid to the person who paid it. Part payment of tax. 1899, 394, §§ 1, 2, 4.

COLLECTION BY DISTRESS.

SECTION 20. If a person refuses or neglects to pay his tax for fourteen days after demand, the collector shall without unnecessary delay levy the same by distress or seizure and sale of his goods, including any share or interest he may have as a stockholder in a corporation incorporated under authority of this commonwealth or under the laws of the United States and located or having a general office in this commonwealth; but excluding the tools or implements necessary for his trade or occupation, beasts of the plough necessary for the cultivation of his improved land, military arms, utensils for housekeeping necessary for upholding life, and bedding and apparel necessary for himself and family. Distress and sale for taxes. Exemptions. 1785, 50, § 6. R. S. 8, § 7. 1846, 195, § 1. G. S. 12, § 7. P. S. 12, § 8. 1888, 390, § 12. 9 Met. 504. 7 Gray, 133. 121 Mass. 351. 126 Mass. 101.

Detention, notice, sale.
1785, 50, § 6; 70, § 2.
1791, 22, § 3.
R. S. 8, § 8.
G. S. 12, § 8.
P. S. 12, § 9.
1888, 390, § 13.
1 Met. 328.
13 Met. 85.

SECTION 21. The collector shall keep the goods distrained, at the expense of the owner, for four days at least, and shall, within seven days after the seizure, sell the same by public auction for payment of the tax and charges of keeping and sale, first posting notice of the sale in some public place in the city or town at least forty-eight hours prior thereto. 113 Mass. 40. 126 Mass. 101. 127 Mass. 502.

Adjournment of sale.
R. S. 8, § 9.
G. S. 12, § 9.
P. S. 12, § 10.
1888, 390, § 14.

SECTION 22. The collector may once adjourn such sale for not more than three days, and he shall forthwith post a notice of such adjournment at the place of sale.

Seizure and sale of shares.
1846, 195, §§ 2, 34.
G. S. 12, §§ 10, 11.
P. S. 12, §§ 11, 12.
1888, 390, §§ 15, 16.
4 Cush. 10.
11 Cush. 338.

SECTION 23. The seizure of a share of stock or other interest in a corporation may be made by leaving with its clerk, treasurer or cashier, if there is such officer, otherwise with any officer or person who has at the time the custody of its books and papers, an attested copy of the warrant, with a certificate thereon, under the hand of the collector, stating the tax which the stockholder is liable to pay, and that because of his refusal or neglect to pay, the collector has seized such share or interest. The sale thereof shall be made in the manner above prescribed for the sale of goods by collectors, and shall also be subject to the provisions of sections forty-nine and fifty of chapter one hundred and seventy-seven.

Recovery of taxes assessed to person not owner of land taxed to him.
1785, 70, § 14.
R. S. 8, §§ 16, 17.
G. S. 12, § 21.
P. S. 12, § 23.
1888, 390, § 27.

SECTION 24. If a person is taxed for land in his occupation, but of which he is not the owner, the collector, after demand for payment, may levy the tax by distress and sale of the cattle, sheep, horses, swine or other stock or produce of such estate, belonging to the owner thereof, which, within nine months after such assessment has been committed to him, may be found upon the premises, in the same manner as if such stock or produce were the property of the person so taxed; but such demand for payment need not be made if the person on whom the tax is assessed resided within the precinct of the collector at the time of the assessment, and subsequently removes therefrom and remains absent three months.

Surplus proceeds to owner.
1785, 70, § 2.
R. S. 8, § 10.
G. S. 12, § 12.
P. S. 12, § 13.

SECTION 25. The collector shall upon demand give an account in writing of every sale on distress or seizure and charges, and pay to the owner any surplus above the taxes, interest and charges of keeping and sale. 1888, 390, § 17. 5 Gray, 530. 126 Mass. 101.

COLLECTION BY IMPRISONMENT.

Imprisonment for non-payment of tax.
1785, 70, § 2.
R. S. 8, § 11.
G. S. 12, § 13.
P. S. 12, § 14.
1888, 390, § 18.
1893, 241.
1901, 408.
13 Met. 85.
9 Gray, 190.
13 Gray, 93.

SECTION 26. If a person refuses or neglects to pay his tax for fourteen days after demand and the collector cannot find sufficient goods upon which it may be levied, he may take the body of such person and commit him to jail until he pays the tax and charges of commitment and imprisonment, or is discharged according to law; but a person committed for the non-payment of a poll tax shall not be detained in jail more than seven days. 3 Allen, 5.

Certificate of cause of commitment.
1785, 70, § 11.
R. S. 8, § 13.
G. S. 12, § 14.
P. S. 12, § 15.

SECTION 27. A collector who commits a person to jail shall give to the keeper thereof a certificate signed by him, stating that he has committed the person for non-payment of his tax for fourteen days after demand therefor, and for want of goods and chattels

whereof to make distress, and setting forth the amount said person shall pay for said tax, interest, charges and fees. 1888, 390, § 19. 1889, 334, § 5.

SECTION 28. Upon the request of a person who has been committed to jail for the non-payment of a tax, the jailer shall forthwith inform some magistrate having authority to examine poor debtors that the debtor desires to take the oath for the relief of poor debtors. The magistrate shall thereupon appoint a time and place for the examination of the debtor, and shall direct the jailer to cause the debtor to be present at the examination. The notice which is required by section thirty-three of chapter one hundred and sixty-eight to be given to the creditor may be given to any one of the assessors or to the collector of the city or town in which the tax was assessed, any of whom may appear at the examination and do all things which a creditor might do upon an arrest or execution. If a debtor is unable to pay such tax, he may be discharged in the same manner as if he were committed upon an execution. Discharge of debtor upon poor debtor oath. 1790, 42, §§ 1-4. R. S. 8, §§ 48, 49. 1857, 141, § 24. G. S. 12, § 15. P. S. 12, § 16. 1888, 390, § 20.

SECTION 29. The collector shall be liable for the tax and the charges of imprisonment of a person who is discharged, unless he arrested and committed such person within one year after the tax was committed to him for collection, or unless he shall be exonerated therefrom by the city or town to which the tax is due. Liability of collector if debtor discharged. 1790, 42, § 6. R. S. 8, § 50. G. S. 12, § 16. P. S. 12, § 17.

1888, 390, § 21. 3 Met. 152.

SECTION 30. A collector who is resisted or impeded in the exercise of the duties of his office may require any suitable person to aid him; and any such person refusing or neglecting to render such aid shall forfeit not more than ten dollars. P. S. 12, § 18. 1888, 390, § 22. Collector may require aid. 1782, 61, § 2. 1785, 70, § 9. R. S. 8, § 6. G. S. 12, § 17.

SECTION 31. If a tax assessed upon a person remains unpaid for fourteen days after demand therefor, the collector may issue his warrant to the sheriffs of the several counties, or their deputies, or to any constable or deputy collector of taxes of the city or town for which he is the collector, directing them and each of them to distrain the property or take the body of the person assessed and to proceed as required of collectors in like cases. The warrant shall run throughout the commonwealth, and any officer to whom it is directed may serve it and apprehend the person in any county. Distraint of property. Warrant of collector. 1785, 70, § 5. R. S. 8, § 14. 1842, 34. G. S. 12, § 18. P. S. 12, § 19. 1888, 390, § 23. 1889, 334, § 6. 5 Allen, 563.

COLLECTION BY SUIT.

SECTION 32. If a tax remains unpaid for three months after it has been committed to the collector, he may maintain an action in his own name against the person assessed therefor in the same manner as for his own debt. 1888, 390, § 24. 1889, 334, § 7. Action for tax. 1789, 4. R. S. 8, § 15. 1859, 171. G. S. 12, § 19. P. S. 12, § 20.

SECTION 33. If a person assessed for a tax dies or becomes insolvent before the payment thereof, or if a tax is assessed upon the estate of a deceased person, the executor, administrator or assignee shall, if a demand has been made upon him therefor, forthwith upon receipt of any money applicable to the payment of the tax, pay the same, and in default shall be personally liable therefor as for his own tax. Liability of executor, etc. 1848, 235. 1852, 234. G. S. 12, § 20. P. S. 12, § 21. 1888, 390, § 25. 97 Mass. 321. 121 Mass. 222. 149 Mass. 62.

Liability of trustee of accumulating fund.
1878, 189, § 4.
P. S. 12, § 22.
1888, 390, § 26.
123 Mass. 355.
124 Mass. 193, 196.

SECTION 34. If personal property in the possession of a corporation or an individual as an accumulating fund for the future benefit of heirs or other persons has been duly assessed to them in accordance with clause six of section twenty-three of chapter twelve, and they neglect, for one year after the tax has been committed to the collector, to pay the same, the collector may maintain an action in his own name against the trustee therefor as for his own debt; and the amount paid by said trustee may be allowed in his account.

COLLECTION BY SALE OR TAKING OF LAND.

Unpaid taxes to be a lien on land, etc.
1830, 151, § 9.
R. S. 8, § 18.
1856, 239, § 1.
1859, 118, §§ 1, 2.
G. S. 12, §§ 22,23.
1878, 266, § 14.
1881, 304, § 4.
P. S. 12, §§ 24, 25.
1888, 390, §§ 30, 31.
1889, 334, § 9.
7 Pick. 15.
2 Gray, 185.
99 Mass. 31.
106 Mass. 29.
110 Mass. 387.
119 Mass. 295.
120 Mass. 299.
124 Mass. 343.

SECTION 35. Taxes assessed upon land, including those assessed under the provisions of sections sixteen, seventeen and eighteen of chapter twelve, shall with all incidental charges and fees be a lien thereon from the first day of May in the year of assessment. Such lien shall terminate at the expiration of two years from the first day of October in said year, if the estate has in the mean time been alienated; otherwise it shall continue until an alienation thereof. There shall be no lien for taxes re-assessed if the property is alienated before the re-assessment. Said taxes, if unpaid for fourteen days after demand therefor, may, with said charges and fees, be levied by sale of the real estate, if the lien thereon has not terminated prior to the giving of the notice of sale.

129 Mass. 379. 137 Mass. 407, 445. 142 Mass. 577. 154 Mass. 209.

Demand for payment by mortgagee, when.
1848, 166, § 1.
G. S. 12, § 24.
P. S. 12, § 26.
1888, 390, § 32.
1889, 334, § 10.

SECTION 36. If a mortgagee of land situated in the place of his residence, before the first day of September of the year in which the tax is assessed, gives written notice to the collector that he holds a mortgage on land, with a description of the land, the demand for payment shall be made on the mortgagee instead of the mortgagor.

—at designated place.
1794, 68, § 1.
R. S. 8, §§ 20, 21.
1848, 166, § 2.
G. S. 12, §§ 25,26.
P. S. 12, §§ 27,28.
1888, 390, §§ 33, 34.
1889, 334, § 11.
1899, 425, § 1.

SECTION 37. If a mortgagee or an owner of land causes a notice, designating a place in the city or town in which such land lies at which all papers relative to taxes on such land which are to be served on him may be left, to be recorded in January of any year in the office of the clerk of such city or town and, during said month, to be delivered to the collector thereof, a notice, summons, demand for payment or other paper relating to the taxes on such land which are to be served by the collector shall be served at such place. The collector shall not advertise the sale of such land for two months after the time of a demand so made.

Notice of sale of land.
1785, 70, § 7.
R. S. 8, §§ 24, 25.
1848, 166, § 3.
G. S. 12, §§ 28,29.
P. S. 12, §§ 30,31.
1888, 390, §§ 35, 36.
13 Gray, 77.

SECTION 38. The collector shall give notice of the time and place of sale of land for payment of taxes by publication thereof. Such notice so published shall contain a substantially accurate description of the several rights, lots, or divisions of the land to be sold, the amount of the tax assessed on each, and the names of all owners known to the collector. 124 Mass. 66. 126 Mass. 280. 136 Mass. 33.

Designation of place if name has been changed.
1785, 70, § 7.
R. S. 8, § 26.
G. S. 12, § 31.

SECTION 39. If land to be sold is situated in a place the name of which shall have been changed by law within three years preceding the sale, the collector shall designate such place in his notices of the sale by its former and existing name. P. S. 12, § 33. 1888, 390, § 38.

SECTION 40. The collector shall, three weeks before the sale, post a notice similar to that required by section thirty-eight in some convenient and public place in his precinct. Notice of sale, posting. 1785, 70, § 7. R. S. 8, § 27. 1848, 166, § 4.

G. S. 12, § 30. P. S. 12, § 32. 1888, 390, § 37. 1889, 334, § 12. 1901, 108. 126 Mass. 280.

SECTION 41. If the taxes are not paid, the collector shall, at the time and place appointed for the sale, sell by public auction the smallest undivided part of the land which will satisfy the taxes and necessary intervening charges, or the whole, if no person offers to take an undivided part; and may at such sale require of the purchaser an immediate deposit of such sum as he shall consider necessary to insure good faith in the payment of the purchase money, and on failure of the purchaser to make such deposit forthwith, the sale shall be void and another sale may be made as hereinbefore provided. Sale by auction. Disposition of proceeds. Deposit by purchaser. 1785, 70, § 7. R. S. 8, §§ 28, 29. G. S. 12, § 33. P. S. 12, § 35. 1888, 390, § 40. 1900, 376. 13 Gray, 77. 3 Allen, 535. 124 Mass. 65. 126 Mass. 280. 127 Mass. 39. 152 Mass. 203. 154 Mass. 209. 171 Mass. 315.

SECTION 42. The collector may adjourn the sale from time to time not exceeding seven days in all; and he shall give notice of every adjournment by a public declaration thereof at the time and place appointed for the sale. Adjournment of sale. R. S. 8, § 30. G. S. 12, § 34. P. S. 12, § 37. 1888, 390, § 42. 112 Mass. 535.

SECTION 43. The collector shall execute and deliver to the purchaser a deed of the land, which shall state the cause of sale, the price for which the land was sold, the name of the person on whom the demand for the tax was made, the places where the notices were posted, the name of the newspaper in which the advertisement of the sale was published, and the residence of the grantee, and shall contain a warranty that the sale has in all particulars been conducted according to law. The deed shall convey, subject to the right of redemption, all the right and interest which the owner had in the land when it was taken for his taxes. Such deed shall not be valid unless recorded within thirty days after the sale, and, after the expiration of five years from the date of the record thereof, shall be prima facie evidence of all the facts therein contained. Deed to purchaser; contents; record. 1785, 70, § 7. R. S. 8, § 31. 1848, 166, § 5. G. S. 12, § 35. P. S. 12, § 38. 1888, 390, § 43. 1901, 197, 519. 2 Gray, 185. 6 Allen, 576. 118 Mass. 540. 126 Mass. 278. 127 Mass. 39. 134 Mass. 88. 136 Mass. 32. 142 Mass. 576. 154 Mass. 209. 164 Mass. 335.

SECTION 44. If it subsequently appears that, by reason of an error, omission or informality in the assessment or the sale, the purchaser has no claim upon the property sold, he may within two years after the date of the deed, offer by writing given to the collector, to surrender and discharge his deed or to assign and transfer to the city or town all his right, title and interest in the premises, as the collector shall elect. Such offer shall contain a specific statement of the reason why the holder has no claim on the land sold, with the evidence upon which he relies, and if such evidence consists of any public record or of facts shown therein, such offer shall contain a specific reference thereto. Upon such surrender and discharge or assignment and transfer, the city or town shall pay to the purchaser the amount which he paid with interest at the rate of ten per cent per annum which payment shall be in full for all damages for any defects in the proceedings or under the warranty in such deed. No city or town and no treasurer or collector thereof shall pay or be liable for any amount due under the provisions of this section unless such statement is filed. Reimbursement of purchaser on surrender of deed if sale invalid. 1862, 183, § 6. 1878, 266, § 1. P. S. 12, § 39. 1882, 243, § 3. 1888, 390, §§ 44, 47. 10 Allen, 49. 129 Mass. 567. 131 Mass. 277.

Owner of tax title to file in registry of deeds, etc., a statement of residence, etc.
1882, 243, §§ 1, 2.
1888, 390, §§ 45, 46.

SECTION 45. Whoever has a title to land under a sale for non-payment of taxes or other assessment and is a resident of the city or town in which such land lies, shall file with the treasurer of such city or town and in the registry of deeds, a statement of his residence and place of business, with the street and number, if any. Such person, who is not a resident of such city or town or who removes therefrom, shall appoint an agent residing therein, or in the place where the tax deed is recorded, authorized to release such land. He shall also file the statement above required in which he shall also state the name of such agent and his residence and place of business, with the street and number, if any. Whenever a person holding a tax title changes his residence or place of business or agent, he shall file a new certificate. Tender of payment to, and service of process upon, such agent shall be a sufficient tender to, or service upon, the holder of such tax title.

Collector to purchase for city or town if bid insufficient.
1862, 183, §§ 1, 5.
P. S. 12, § 40.
1888, 390, § 48.
142 Mass. 535.

SECTION 46. If at the time and place of sale no person bids for the land so offered for sale an amount equal to the tax and charges, and if the sale has been adjourned one or more times, the collector shall then and there make public declaration of the fact; and, if no bid equal to the tax and charges is then made, he shall give public notice that he purchases for the city or town by which the tax is assessed, the said land as offered for sale at a price not exceeding the amount of the tax and the charges and expenses of the levy and sale, which amount shall be allowed to him in his settlement with such city or town.

Sale to be void if purchase money is not paid within twenty days.
1862, 183, § 3.
P. S. 12, § 41.

SECTION 47. If the purchaser of such land fails to pay the collector within twenty days after the sale the amount bid by him the sale shall be void, and the city or town shall be deemed to be the purchaser of the land, under the provisions of the preceding section.

1888, 390, § 49. 1889, 334, § 13. 126 Mass. 278. 140 Mass. 578.

Deed to city or town. Contents.
1862, 183, § 2.
P. S. 12, §§ 42, 43.
1888, 390, §§ 50, 51.
1889, 334, § 14.
6 Allen, 575.
131 Mass. 57.

SECTION 48. If the city or town becomes the purchaser, the deed to it, in addition to the statements required by section forty-three, shall set forth the fact that no bid was made at the sale or that the purchaser failed to pay the amount bid, as the case may be, and shall confer upon such city or town the rights and duties of an individual purchaser.

Sale of unimproved, etc., land.
1894, 537, §§ 1, 2.

SECTION 49. If unimproved and unoccupied land does not exceed four thousand square feet in area, or is laid out in lots or parcels no one of which exceeds such area, and the taxes unpaid for any one year do not exceed fifty cents on such land, or on any such lot or parcel thereof, the collector may give notice of the sale by publication of an advertisement stating the name of the owner of record of each lot on the first day of May of the year of assessment, the tax due thereon and the number of such lot on a street, way or plan, without further description thereof.

Deeds of such land.
1894, 537, § 3.

SECTION 50. The collector may convey in one deed to the same purchaser or convey to the city or town, any number of the lots so advertised and sold, and said deed shall state the name of said owner of record of each lot conveyed therein, on the first day of

May of said year, the amount of the taxes and cost due for each lot, and the number on the street, way or plan of each lot respectively and need contain no further description of the lot, owner or amount due.

SECTION 51. The cost of advertisement shall be apportioned equally among all the lots specified in the advertisement; the cost of the sale shall be apportioned equally among all the lots sold, and the cost of the deed shall be apportioned equally among all the lots conveyed thereby.

Apportionment of cost of advertisement, sale and deed. 1894, 537, § 4.

SECTION 52. Deeds to a city shall be placed in the custody of its collector, and to a town in the custody of its treasurer, and all applications for the redemption of the land conveyed thereby shall be made to such collector or treasurer respectively. Cities and towns may make regulations for the custody, management and sale of such land and for the assignment of tax titles, not inconsistent with law or with the right of redemption.

Custody of tax title deeds to cities and towns. Management of tax titles, how regulated. 1862, 183, §§ 2, 4. P. S. 12, § 43. 1888, 390, § 51. 1889, 334, § 14.

SECTION 53. If a tax on land is not paid within fourteen days after demand therefor and remains unpaid at the date of taking the collector may take such land for the city or town, first giving three weeks' notice of his intention to exercise such power of taking; which notice may be served in the manner required by law for the service of subpœnas upon witnesses in civil cases or may be published, and shall conform to the requirements of section thirty-eight. He may also post a similar notice under the provisions of section forty.

Taking of land by collector for taxes. Notice. 1878, 266, § 5. 1881, 304, § 4. P. S. 12, § 44. 1888, 390, § 52.

SECTION 54. The instrument of taking shall be under the hand and seal of the collector and shall contain a statement of the cause of taking, a substantially accurate description of each parcel of land taken, the name of the person to whom the same was assessed, the amount of the tax thereon and the incidental expenses and costs to the date of taking, and shall be recorded in the registry of deeds; and the title to the land so taken shall thereupon vest in the city or town subject to the right of redemption.

Instrument of taking, form, contents, effect. 1878, 266, § 5. P. S. 12, § 46. 1888, 390, § 54. 1892, 109, § 2.

SECTION 55. If land has been so taken there shall be allowed to the collector and added to the tax the charges and fees fixed by section thirteen. 1888, 390, § 55.

Fees for taking. 1878, 266, § 13. P. S. 12, § 47.

SECTION 56. The assessment, sale or taking may be made in the name of one or more of the record owners at the date of assessment, and if so made, shall, subject to the provisions of section forty-one, be deemed to be in the name of the owner thereof. Every such sale or taking shall be of the whole estate and not of the undivided interest of any joint owner thereof.

Sale or taking to be of entire estate. In whose name to be made. 1881, 304, § 4. P. S. 12, § 48. 1888, 390, § 56. 175 Mass. 355.

SECTION 57. The affidavit of the collector, deputy collector or disinterested person reciting the proceedings required by law in the sale of land for taxes, with copies of the advertisement and notices

Affidavit of collector, etc., to be evidence. 1794, 68. R. S. 8, §§ 22, 23.

G. S. 12, §§ 27,32. 1878, 266, § 5. P. S. 12, §§ 34,45. 1888, 390, §§ 39, 55.

annexed thereto, recorded within three months after such sale in the registry of deeds, shall be competent evidence of demand, notice and service. 1892, 109, § 1. 152 Mass. 203.

REDEMPTION.

Redemption of land taken or sold for taxes. 1785, 70, § 7. R. S. 8, § 32. 1850, 98, §§ 1, 2. G. S. 12, § 36. 1878, 266, §§ 9,14. 1879, 73, 94. 1881, 304, § 4. P. S. 12, § 49. 1888, 390, § 57. 98 Mass. 44. 126 Mass. 278, 335. 127 Mass. 504. 130 Mass. 125. 136 Mass. 267. 148 Mass. 446. 166 Mass. 407. 171 Mass. 315. 174 Mass. 303. 177 Mass. 431.

SECTION 58. The owner of land taken or sold for payment of taxes, including those assessed under the provisions of sections sixteen, seventeen and eighteen of chapter twelve, or his heirs or assigns, may, within two years after the taking or sale, redeem the same by paying or tendering to the collector, if the estate has been taken or purchased by the city or town, the amount of the tax, with ten per cent interest thereon, and all intervening taxes, charges and fees; or by paying or tendering to the purchaser, or his legal representatives or assigns, the original sum, with ten per cent interest thereon and intervening taxes paid by him. In each case he shall also pay not more than three dollars for examination of the title, for a deed of release and for the cost of recording the tax deed or evidence of taking, and shall be credited with any rents and profits received by the purchaser.

He may redeem land so taken or sold as above provided at any time within two years after he has actual notice of the taking or sale: —

First, If the land has been taxed as belonging to persons unknown, and no person has been named in the tax list as owner or occupant.

Second, If the person named in said list is merely a tenant or occupant of the premises, and not the owner thereof.

Third, If there is in the tax lists, notices or deeds any substantial and misleading error in the name of the person taxed.

Fourth, If the person offering to redeem is a mortgagee of record and the tax was not assessed to him.

Penalty for attempt to collect unlawful amount for redemption of estate. 1891, 288.

SECTION 59. Whoever knowingly collects or attempts to collect for the redemption of land sold for payment of taxes a sum of money greater than that authorized by the preceding section shall be punished by a fine of not more than one hundred dollars.

Redemption if purchaser cannot be found. 1848, 166, §§ 6, 8. G. S. 12, § 37. P. S. 12, § 50. 1888, 390, § 58.

SECTION 60. If upon reasonable search the purchaser of land sold for payment of taxes, or an agent duly appointed by the purchaser, cannot be found, any person having an interest in the land may redeem it as provided in section fifty-eight, by paying to the treasurer of the place in which it is situated the amount which he would be required to pay to the purchaser; and the affidavit of any disinterested person of such search, recorded in the registry of deeds, within ninety days after the completion of the search, shall be prima facie evidence of the facts therein stated.

Disposition of money by treasurer. Release of title under collector's deed. 1848, 166, § 7. G. S. 12, § 38. P. S. 12, § 51. 1888, 390, § 59.

SECTION 61. Such treasurer shall receive the money and give to the person paying it a certificate of such payment, specifying the land on which the tax was originally assessed. The certificate, when recorded in the registry of deeds, with a note of reference from such record to the collector's deed shall release and discharge all right and title acquired under the collector's deed. The treas-

urer shall on demand pay over all money so received to the persons entitled thereto.

Mortgagee may pay taxes, when.
1856, 239, § 2.
G. S. 12, § 39.
1878, 266, § 14.
P. S. 12, § 52.
1888, 390, § 60.
129 Mass. 291.
131 Mass. 278.
170 Mass. 551.

SECTION 62. If proceedings have been commenced for the taking or sale of land for a tax assessed thereon, or if the owner of land has neglected, for three months after demand, to pay such tax, and the collector has made demand therefor upon a holder of a mortgage thereon, such holder may in like manner pay such tax, charges and expenses and the amount so paid may be added to the mortgage debt.

— shall pay them on taking possession; entitled to deed on tender.
1856, 239, § 3.
G. S. 12, § 40.
1878, 266, § 14.
1879, 73, 94.
P. S. 12, § 53.
1888, 390, § 61.
5 Allen, 65.
129 Mass. 291.
130 Mass. 126.
131 Mass. 278.
137 Mass. 444.
177 Mass. 431.

SECTION 63. If the holder of a mortgage takes possession of land thereunder, all taxes due and constituting a lien thereon, and the expenses of any taking or sale which has been commenced or has taken place, may be recovered of him in an action of contract by the collector, or by the purchaser, as the case may be; and upon payment or tender by the mortgagee to the collector or to the purchaser of the amounts so due within the time provided by section fifty-eight for owners of land to make payment, the city or town or the purchaser shall convey to him all the interest acquired by the taking or sale.

Mortgage taxes payable by either party. To be added to or deducted from mortgage debt.
1881, 304, § 5.
P. S. 12, § 55.
1888, 390, § 63.
131 Mass. 278.

SECTION 64. Any part of a tax assessed upon land which is assessed to a mortgagor and mortgagee separately and remains unpaid on the first day of January next following such assessment, may be paid by either party. If a mortgagee pays a tax, interest or costs thereon which by law or by the terms of the mortgage was payable by the mortgagor, the amount so paid shall be added to the mortgage debt. If it is by law or by the terms of the mortgage payable by the mortgagee, and is paid by the mortgagor, the amount so paid shall be deducted from the mortgage debt unless the parties have, in writing, otherwise agreed.

Payment of taxes by person not the owner of the fee.
1856, 239, §§ 1-3.
G. S. 12, § 41.
P. S. 12, §§ 54,57.
1888, 390, §§ 62, 63, 65.

SECTION 65. If a person other than the owner of the fee, rightfully pays the taxes assessed upon land to the collector or treasurer, before a taking or sale, the treasurer or collector shall give him a certificate of such payment stating the name of the person to whom the land is taxed, of the person paying the tax, and a substantially accurate description of the land. Such certificate being recorded in the registry of deeds within thirty days from its date shall be notice to all persons of such payment and of the lien therefor. A person whose tax is paid by another shall upon repaying the same have the same right to recover it from the city or town, if illegally assessed, which he would have had if the tax had been paid by him under protest in writing.

Effect on remedy for illegal assessment.

Assessment of land taken by a city or town.
1862, 183, § 8.
1878, 266, § 10.
P. S. 12, § 56.

SECTION 66. If land is taken or purchased by a city or town, taxes shall be assessed thereon as though the same were not so taken or purchased; and shall be deducted from the proceeds of the final sale. 1888, 390, § 64.

Sale of unredeemed land taken by city or town.
1862, 183, § 7.

SECTION 67. If no person redeems land taken or purchased by a city or town within the time prescribed by law, its collector for the time being, without any vote or other special authority shall, within

1878, 266, § 10. P. S. 12, § 58. 1883, 101. 1886, 320, § 1. 1888, 390, § 66.

two years after the time for redemption has expired, sell the same by public auction, first giving the notice required by the provisions of section forty for sales for taxes; and if, from any cause, such sale shall not be made within two years, it shall be made by the collector when he deems best or at once upon the service upon him of a written demand of any person interested therein. The collector shall state in his notice of sale the smallest amount for which the sale will be made and shall, for the city or town, execute and deliver to the highest bidder therefor a quitclaim deed. He shall deduct from the proceeds of said sale the expense thereof, the amount named in the collector's deed or instrument of taking as due when the same was executed, all interest, charges and subsequent taxes and assessments thereon. The balance shall be deposited with the city or town treasurer to be paid to the person entitled to the land, if demanded within five years; otherwise it shall inure to said city or town.

Proceedings if no sufficient bid is made. 1886, 320, § 2. 1888, 390, §§ 67, 68.

SECTION 68. If no person bids at such sale said amount or more, or if the person to whom the land is sold does not within ten days pay to the collector the sum bid by him, the collector shall make an affidavit of the facts, which shall be recorded in the registry of deeds within thirty days of the date at which the land was offered for sale, after which said affidavit shall be in the custody of the city or town treasurer, and the same, or a copy thereof, certified by the register of deeds, shall be prima facie evidence of the facts therein stated.

Collector to take possession of unredeemed land held by city or town. 1886, 320, § 3. 1888, 390, § 68.

SECTION 69. The collector shall, within thirty days after the recording of said affidavit, take possession of said land in behalf of the city or town, which may make regulations for the custody, management and sale thereof, and taxes shall be assessed thereon in the name of such city or town until it shall be sold; and such subsequent sale and the money received therefrom shall be held as provided in section sixty-seven.

PROCEEDINGS IF TAX TITLE IS HELD INVALID.

Proceedings of collector who deems tax title invalid. 1878, 266, § 2. P. S. 12, § 59. 1888, 390, § 69. 1889, 334, § 15.

SECTION 70. If a collector has reasonable cause to believe that the title to land which has been sold for the non-payment of taxes or of assessments, a lien for which is enforceable by a sale of land, is invalid by reason of an error, omission or informality in the assessment or sale, he may, within two years after the date of the deed of such land, give notice to the record owner thereof, requiring him, within thirty days thereafter, to release any interest which he may have in such land under said deed, and to receive from the city or town the amount paid therefor with interest at ten per cent or to file with the collector a statement in writing that he refuses to release such interest. Such statement, if recorded in the registry of deeds, shall release the city or town from any liability upon the warranty in said deed.

Notice to holder of such title. 1878, 266, § 3. P. S. 12, § 60. 1888, 390, § 70.

SECTION 71. If, within thirty days after such notice, such owner does not comply therewith, the collector shall cause a copy thereof, with an affidavit by himself or by a disinterested person of

the service thereof and of the facts in the case, to be recorded in the registry of deeds. A note of reference to the record of said copy shall be made on the margin of the record of the collector's deed therein referred to; and from the time of such record the interest payable by reason of a breach of warranty in such deed shall cease, and all right and title which may have been acquired under such deed shall be held to be released. The collector shall give notice of such proceedings to the treasurer of the city or town, who shall, upon reasonable demand, pay over out of any funds in his hands the amount due in respect of said deed to the persons entitled thereto.

Re-assessment and collection. Disclaimer of title by taking. 1878, 266, §§ 4, 7. P. S. 12, §§ 61, 62. 1888, 390, §§ 71, 72. 1889, 334, § 15.

SECTION 72. If the invalidity of a title described in section seventy was caused by an error, omission or informality in the assessment, the collector, after obtaining from the holder of the deed a release of his interest or after causing a copy of the notice to be filed and recorded as provided in the preceding section, shall forthwith notify the board by which the tax or assessment was laid, which shall forthwith re-assess it as provided in section eighty-six of chapter twelve. If such invalidity was caused by an error, omission or informality in the proceedings of the collector, he shall, after obtaining such release or after filing and recording such copy, forthwith collect the unpaid tax or assessment in conformity to law. If the collector has reasonable cause to believe that a tax title, held by a city or town under a sale or taking for payment of a tax, is invalid by reason of any error, omission or informality in the assessment, sale or taking, he may disclaim and release such title by an instrument under his hand and seal, duly recorded in the registry of deeds.

LIEN OF CO-TENANTS.

Tenant in common, etc., paying tax, to have lien on interest of co-tenant. 1875, 236, § 1. P. S. 12, § 63. 1888, 390, § 73.

SECTION 73. A tenant in common or joint tenant, who pays the entire tax assessed upon the land held jointly or in common, shall have a lien upon the interest of each of his co-tenants, to secure the payment to him of the proportion of such tax payable by each of said co-tenants respectively, with the costs of enforcing the same; but any person whose tax has been so paid by his co-tenant shall have the same right to recover it back if illegally assessed as he would have had if the tax had been paid under a protest by him in writing.

Enforcement and dissolution of lien. 1875, 236, §§ 2–5. P. S. 12, §§ 64, 65. 1888, 390, §§ 74, 75. 148 Mass. 444.

SECTION 74. Such lien may be enforced in the manner provided for enforcing liens on buildings and land; and shall be dissolved, unless the person desiring to avail himself thereof makes a certificate setting forth a description, sufficiently accurate for identification, of the property intended to be covered by the lien, the names of the several co-tenants and the interest of each therein, the amount of the tax paid, and the amount due from each co-tenant, which shall be subscribed and sworn to by him, or by some one in his behalf, and shall within thirty days after the day of payment of said tax be recorded in the registry of deeds, and unless a suit to enforce it is commenced within ninety days after the date of recording said certificate. Such lien shall not be valid against a mortgage actually existing and duly recorded prior to the recording of said certificate.

MISCELLANEOUS PROVISIONS.

Relief in equity.
1849, 213, § 2.
1856, 239, § 4.
G. S. 12, § 42.
1878, 266, § 14.
P. S. 12, § 66.
1888, 390, § 76.
1900, 177.

SECTION 75. The supreme judicial court and the superior court shall have jurisdiction in equity in all cases of taking or sale of land for the payment of taxes if relief is sought within five years after the taking or sale.

99 Mass. 209. 112 Mass. 86. 126 Mass. 337. 143 Mass. 59. 10 Met. 101. 150 Mass. 73. 168 Mass. 76. 11 Gray, 410. 172 Mass. 436. 175 Mass. 485. 98 Mass. 44. 177 Mass. 431.

By-laws, etc., to regulate power of sale or of taking by collector.
1878, 266, § 6.
1879, 169.
P. S. 12, § 67.
1888, 390, § 77.

SECTION 76. A city or town may, by ordinance or by-law, respectively, direct whether its collector shall exercise the power of sale or the power of taking to enforce the lien for taxes; and in default of such ordinance or by-law the collector may exercise either power at his discretion; but the passage of any such ordinance or by-law shall not render invalid any proceedings then pending.

Posting of tax list, etc., by sheriff.
1785, 70, §§ 3, 4.
R. S. 8, § 34.
G. S. 12, § 43.
P. S. 12, § 68.
1888, 390, § 78.

SECTION 77. When the tax list and warrant of the assessors is committed to the sheriff or his deputy, he shall forthwith post, in some public place in the city or town assessed, an attested copy of said list and warrant; and shall make no distress for a tax within thirty days thereafter.

Sheriff's fees for collecting.
1785, 70, § 4.
R. S. 8, § 35.
G. S. 12, § 44.
P. S. 12, § 69.
1888, 390, § 79.

SECTION 78. If a person pays his tax within said thirty days, the officer shall receive from him for his fees five per cent on the sum assessed; but if a tax remains unpaid after said thirty days, he shall collect the same by distress or imprisonment, or by sale of land as a collector would do. The officer may also levy his fees for service and travel in the collection of each person's tax, as in other cases of distress and commitment, or sale of land.

Proceedings of treasurer as collector.
1817, 69.
1834, 148.
R. S. 8, §§ 36, 61.
G. S. 12, § 45.
1874, 28, § 2.
P. S. 12, § 70.
1888, 390, § 80.

SECTION 79. If a city or town appoints its treasurer the collector of taxes, he may issue his warrants to the sheriff of the county, or his deputy, or to any constable of the city or town, returnable in sixty days, requiring them to collect any or all taxes due. Such warrants shall be substantially in the same form, and shall confer the same powers as warrants by assessors to collectors.

8 Allen, 330.

Deputy collectors, appointment, bond.
1874, 28, § 1.
P. S. 12, § 71.
1888, 390, § 81.

SECTION 80. The board of aldermen or selectmen may empower any officer authorized to collect taxes to appoint such deputies as he deems expedient. Such deputies shall give bond for the faithful performance of their duties in such sum as the board of aldermen or selectmen may prescribe and shall have the powers of collectors of taxes.

City, etc., treasurer may withhold money due to persons owing taxes.
1878, 266, § 8.
P. S. 12, § 72.
1888, 390, § 82.

SECTION 81. The treasurer or other disbursing officer of any city or town, may, and if so requested by the collector, shall, withhold payment of any money payable to any person whose taxes are then due and wholly or partly unpaid to an amount not exceeding the unpaid tax with interest and costs. The sum withheld shall be paid or credited to the collector, who shall, if required, give a written receipt therefor. The person taxed may in such case have the same remedy as if he had paid such tax after a levy upon his goods. The collector's rights under the provisions of this section, shall not be affected by any assignment or trustee process.

SECTION 82. The mayor and aldermen or the selectmen may require the collector once in two months to exhibit to them a true account of all money received on the taxes committed to him, and to produce the treasurer's receipts for all money paid into the treasury by him. If he neglects or refuses so to exhibit his accounts, he shall forfeit two and one-half per cent on the sums committed to him for collection.

Accounts of collectors to be exhibited bi-monthly if required.
1783, 66, §§ 1, 2.
R. S. 8, §§ 45, 46.
G. S. 12, §§ 46, 47.
P. S. 12, §§ 73, 74.
1888, 390, §§ 83, 84.

SECTION 83. The collector shall be credited with all sums abated; with the amount of taxes assessed upon any person committed to jail for non-payment of his tax within one year from the receipt of the tax list by the collector, and who has not paid his tax; with any sums which the city or town may see fit to abate to him, due from persons committed after the expiration of a year; with all sums withheld by the treasurer of a city or town under section eighty-one; and with the amount of the taxes and charges where land has been purchased or taken by the city or town for non-payment of taxes.

Credits to collectors for abatements, etc.
1785, 42, § 6.
R. S. 8, § 43.
G. S. 12, § 48.
1862, 183, § 5.
P. S. 12, § 75.
1888, 390, § 85.
9 Met. 503.
13 Gray, 324.

SECTION 84. If a collector becomes insane, absconds or removes from the city or town or in the judgment of the board of aldermen or of the selectmen is about so to remove or is otherwise unable to discharge his duty, or if he refuses on demand to exhibit to the board of aldermen or to the selectmen his books, vouchers and accounts of collections as herein provided, the board of aldermen or the selectmen may remove him from office.

Removal by selectmen of disqualified collector.
1783, 10, § 1.
1785, 46, § 15.
1791, 22, § 1.
R. S. 8, § 40.
G. S. 12, § 52.
P. S. 12, § 79.
1888, 390, § 89.
7 Gray, 130.

SECTION 85. If a collector dies or is removed from office or if the term of office of a collector who is paid by a fixed salary expires before the collection of the taxes committed to him is completed, the assessors shall commit to his successor the list of taxes uncollected with their warrant. P. S. 12, §§ 80, 81. 1888, 390, §§ 90, 91. 1 Met. 524.

Tax list of deceased, etc., collector, how completed.
1785, 46, § 5; 70, § 1.
R. S. 8, § 39
G. S. 12, § 53.
1881, 138, § 1.

SECTION 86. No action to recover back a tax shall be maintained, except as provided in section seventy-three, unless it is commenced within three months after payment of the tax nor unless such tax is paid either after an arrest of the person paying it, a levy upon his goods, a notice of a sale of his land, a protest in writing signed by him, or a withholding of money due to him under the provisions of section eighty-one. In an action founded upon an error or irregularity in the assessment or apportionment of a tax, only the amount in excess of the tax for which the plaintiff was liable shall be recoverable; and no sale, contract or levy shall be avoided solely by reason of such error or irregularity.
151 Mass. 226. 152 Mass. 204.

Action to recover back taxes paid to collector, when maintainable.
1859, 118, §§ 3, 4.
G. S. 12, § 56.
P. S. 12, § 84.
1888, 390, § 94.
9 Gray, 38.
13 Gray, 476.
1 Allen, 319.
10 Allen, 48.
99 Mass. 209.
102 Mass. 348.
126 Mass. 98.
127 Mass. 502.
129 Mass. 551.
132 Mass. 89.
149 Mass. 242.

SECTION 87. The following forms may be used in proceedings for the collection of taxes under the provisions of this chapter, and, if substantially followed, they shall be deemed sufficient for the proceedings to which they respectively relate; but other suitable forms may also be used. These forms may also be used, so far as applicable, in the collection of betterments and other assessments of like character.

Forms.
1888, 390, § 96.
1889, 334, § 16.

SCHEDULE OF FORMS.

No. 1. — Form of Demand under Section 14.

COLLECTOR'S OFFICE, B, , 19 .

To _____

Herewith find your tax bill due 19 , amounting to $. Payment of the same is hereby demanded. [If interest has been voted by the city or town, add] Interest at the rate of per cent per annum will be charged from 19 . You are hereby notified that unless your tax is paid in fourteen days from this date, with all legal charges, the collector will then proceed to collect the same according to law.

C D,
Collector of Taxes for the of .

No. 2. — Form of Notice of Sale of Distrained Property under Section 21.

COLLECTOR'S SALE.

Distrained upon a warrant of distress for non-payment of taxes, and will be sold by public auction on , the day of , 19 , at o'clock M., at , unless said taxes, interest and charges shall be paid before the sale, the following described property, to wit: [Here describe the property.]

B, , 19 .

C D,
Collector of Taxes for the of .

No. 3. — Form of Notice of Adjournment of Sale under Section 22.

[To the original notice of sale, or a copy thereof, add the following, and post at the place of sale: —]

The collector hereby gives notice that the above sale stands adjourned to , the day of , 19 , at the same hour and place.

B, , 19 .

C D,
Collector of Taxes for the of .

No. 4. — Form of Certificate to be made upon an attested Copy of Warrant when Corporate Stock is seized under Section 23.

COLLECTOR'S OFFICE, B, , 19 .

I hereby give notice that I have seized share of the capital stock of the [A B Company] standing in the name of by virtue of a warrant of distress, a copy of which is herewith presented. Said share being seized and distrained for the non-payment of a tax duly assessed upon the said by the assessors of for the year 19 , amounting to the sum of which the said , after due demand, has neglected and refused to pay.

B, , 19 .

C D,
Collector of Taxes for the of .

No. 5. — Form of Collector's Warrant to distrain or commit under Section 31.

COMMONWEALTH OF MASSACHUSETTS.

To the Sheriffs of our several Counties, or their Deputies, or to any Constable of or Deputy Collector of Taxes for the of in the County of

GREETING:

WHEREAS, a resident of in the County of was duly assessed as of the first day of May in the year nineteen hundred and , by the Assessors of the of a tax in the sum of dollars; and the same now, after the expiration of fourteen days from the date of a demand made upon him by me in accordance with law for the payment of the same, remains unpaid; Therefore,

In the name of the Commonwealth of Massachusetts, you and each of you, are required and directed to distrain the goods or chattels of the said person so assessed sufficient to satisfy and pay the amount due for such tax and interest, and all fees and charges of keeping and selling the same, saving and excepting the tools or implements necessary for the trade or occupation of the said person so assessed, beasts of the plow necessary for the cultivation of his improved land; military arms; utensils for housekeeping necessary for upholding life; and bedding and apparel necessary for the said person so assessed and his family. And the goods and chattels so distrained by you, you are required to keep at the cost and charge of the owner for four days at least and within seven days after the seizure to sell the same at public auction, for the payment of the said amount due, having first posted up a notice of the sale in some public place in the town or city where found, forty-eight hours at least before the sale: *provided, however*, that you may, if you shall see fit, once adjourn said sale for a time not exceeding three days, in which case you shall forthwith post up a notice of such adjournment and of the time and place of sale. And if said distress shall be sold for more than the said amount due, you shall return the surplus to the owner of such goods or chattels upon demand, with an account in writing of the sale and charges. And if you cannot find sufficient goods and chattels belonging to the person assessed, whereon to make distress, you shall take the body of the said person and him commit to one of the common jails in the county in which you shall arrest him, there to remain until he shall pay said tax, interest, charges, and fees, or until he shall be discharged therefrom by due course of law.

And in case you shall commit said person so assessed to jail by virtue of this Warrant, you are required to give the keeper of the jail wherein he may be committed an attested copy of this Warrant, with a certificate thereon under your hand, setting forth that for want of goods and chattels of the said person whereof to make distress, you have taken his body and committed him to jail as aforesaid; and also setting forth the amount said person is to pay as his tax, interest, charges, and fees.

Hereof fail not, and make return of this Warrant, with your doings thereon, within sixty days from the date hereof.

Given under my hand and seal this day of 19 .

C D, [SEAL.]

Collector of Taxes for the of .

No. 6. — FORM OF CERTIFICATE REQUIRED BY SECTION 27 TO BE GIVEN BY A COLLECTOR WHEN A COMMITMENT IS MADE BY HIM.

, 19 .

I hereby certify that the tax assessed in the [city or town] of as of the first day of May in the year upon remains unpaid for fourteen days after demand therefor made by me; and that for want of goods and chattels whereof to make distress, I commit the said person to jail.

I also certify that the amount the said person is to pay for said tax, interest, charges and fees, is dollars.

C D,

Collector of Taxes for the of .

No. 7. — FORM OF CERTIFICATE REQUIRED BY SECTION 27 TO BE INDORSED ON COPY OF WARRANT IN CASE OF COMMITMENT.

, 19 .

I hereby certify that, by virtue of the warrant, of which the within is a true copy, for want of goods and chattels whereof to make distress, I have taken the body of the within named and committed him to jail, and that the amount which he is to pay as his tax, interest, charges and fees is dollars.

E F,

Deputy Collector of Taxes for the of .

No. 8. — FORM OF SUMMONS UNDER SECTION 15.

B, , 19 .

*To*_____

Your tax for the year 19 , amounting to $ (*and interest thereon*), is now due. You are required to pay the same within ten days from this date with twenty cents for this summons. At the expiration of that time, if the tax is not paid, the collector will proceed to collect the same according to law.

C D,
Collector of Taxes for the of .

No. 9. — FORM OF DEMAND OF TAX ON REAL ESTATE UNDER SECTION 35.

COLLECTOR'S OFFICE, C, , 19 .

*To*_____

In compliance with the statute I hereby demand of you payment of dollars, that being the amount of tax assessed for the year 19 on the estate in this [city or town] [here give a brief statement of the estate] and owned or occupied by you at the date of assessment. You are hereby notified that if said amount, together with the interest, legal costs and charges thereon, is not paid within fourteen days from this date, the said estate will be sold by public auction, pursuant to law.

C D,
Collector of Taxes for the of .

No. 10. — FORM OF COLLECTOR'S NOTICE OF SALE OF REAL ESTATE TO BE PUBLISHED IN A NEWSPAPER UNDER SECTION 38.

B, , 19 .

The owners and occupants of the following described parcels of real estate situated in the [city or town] of , in the county of and Commonwealth of Massachusetts, and the public are hereby notified that the taxes thereon severally assessed for the years hereinafter specified, according to the list committed to me as collector of taxes for said by the assessors of taxes, remain unpaid, and that the smallest undivided part of said land sufficient to satisfy said taxes, with interest and all legal costs and charges, or the whole of said land if no person offers to take an undivided part thereof, will be offered for sale by public auction at the in said on , 19 , at o'clock M., for the payment of said taxes with interest, costs and charges thereon, unless the same shall be previously discharged. [Here state the name of the party taxed, if known; a substantially accurate description of the estate; the year in which the tax is assessed; and the amount of the tax on each parcel of real estate.]

C D,
Collector of Taxes for the of .

No. 11. — FORM OF AFFIDAVIT OF COLLECTOR, DEPUTY COLLECTOR OR DISINTERESTED PERSON OF DEMAND UNDER SECTION 57 TO BE RECORDED IN THE REGISTRY OF DEEDS.

S, , 19 .

I [A B, *collector, deputy collector or a disinterested person,*] hereby certify that on the day of , 19 , I served upon a demand for the payment of a tax of dollars assessed upon him by the assessors of , in 19 , upon the estate in said [here give a substantially accurate description of the estate], with a notice that if said amount and interest thereon, together with the legal costs and charges and interest thereon, was not paid within fourteen days from the date thereof, that the said estate would be sold by public auction, pursuant to law.

A B.

COMMONWEALTH OF MASSACHUSETTS.

H , ss. 19 .

Then personally appeared the said A B, and made oath that this statement by him subscribed is true.

Before me,
Justice of the Peace.

NO. 12.—FORM OF AFFIDAVIT UNDER SECTION 57, WHEN THE DEMAND IS MADE UPON TWO OR MORE PERSONS.

S, , 19 .

I [A B, *collector, deputy collector or a disinterested person,*] hereby certify that on or since the day of 19, , I served on each of the parties hereafter mentioned, on the date and in the manner specified, as may be seen by reference to their respective names, a demand like the blank hereunto attached, the blanks being first filled with the date, name, amount of the tax, and location of the real estate. A B.

Names.	Amount of Tax.	Manner and Date of Service.

COMMONWEALTH OF MASSACHUSETTS.

H , ss. S, , 19 .

Then personally appeared the said A B, and made oath that the above statement by him subscribed is true.

Before me,

Justice of the Peace.

[Here annex the blank form, No. 9, referred to in the affidavit.]

NO. 13.—FORM OF AFFIDAVIT OF POSTING AND PUBLISHING ADVERTISEMENT OF SALE UNDER SECTION 57.

S, , 19 .

I, A B, of , in the County of , and Commonwealth of Massachusetts [*collector, deputy collector or a disinterested person,*] hereby certify that three weeks before the time of sale I witnessed the posting [or posted] pursuant to law the printed notice of the collector of taxes, a copy whereof is hereto annexed, in a convenient and public place in his precinct, to wit: The , in said [city or town], and that said notice was advertised three weeks successively in the , a newspaper published in [city or town] [or if there is no such newspaper, state that fact and add: in said County], the last publication being at least one week before the advertised time of sale; in accordance with law. A B.

COMMONWEALTH OF MASSACHUSETTS.

H , ss. S, , 19 .

Then personally appeared the above named , and made oath that the foregoing statements by him subscribed are true.

Before me,

Justice of the Peace.

[Here annex a copy of the advertisement.]

NO. 14.—FORM OF DEED UNDER SECTIONS 41 AND 43.

COMMONWEALTH OF MASSACHUSETTS.

To all Persons to whom these Presents may come,

I, , Collector of Taxes for the [city or town] of , in the County of and Commonwealth of Massachusetts,

SEND GREETING:

WHEREAS, the Assessors of Taxes of said of , in the lists of assessments for taxes, which they committed to me to collect for the year one thousand nine hundred and , duly assessed as owner of the land in said , which is hereinafter described, the sum of dollars and cents, for State, County and [City or Town] Taxes thereon; and whereas, on the day of , A. D.

19 , I duly demanded of said [if the demand was made on a mortgagee or an attorney of a non-resident owner, here insert the fact]
the payment of said taxes, so as aforesaid assessed on said land, and the same were not paid; and whereas, after the expiration of fourteen days from the time of demanding payment of said taxes as aforesaid, the same still remaining unpaid, I duly advertised that the smallest undivided part of said land sufficient to satisfy said taxes with interest and all legal costs and charges, or the whole of said land if no person offers to take an undivided part thereof, would be sold by public auction for the payment of said taxes with interest, and all legal costs and charges, on the day of , A. D. 19 , at o'clock in the noon, at the , in said , by publishing an advertisement thereof, containing also a substantially accurate description, and the name of the owner of said land, and the amount of the taxes so as aforesaid assessed thereon, in the , a newspaper published in , in the county where said land lies, three weeks successively, the last publication whereof was one week before the time appointed for the sale, and by posting the said advertisement in public and convenient places in said , to wit: the , three weeks before the time appointed for said sale; and whereas, said taxes so as aforesaid assessed on said land were not paid, I proceeded at the time and place appointed as aforesaid for the sale, to sell said land by public auction for the discharge and payment of said taxes thereon with interest, and said legal costs and charges [if the sale is adjourned add here], and no person appeared and bid for an undivided part or for the whole of the land thus offered for sale an amount equal to the said taxes, interest, costs and charges, and I thereupon, at said time and place appointed for said sale, adjourned said sale until the day of , A. D. 19 , at o'clock in the noon, at the same place, and then and there made public proclamation of said adjournment; and in like manner in all respects and for the same cause, I adjourned said sale [here state the successive dates, hours and places to which the sale was adjourned], and then and there made public proclamation of said adjournments; and at the time and place so fixed and proclaimed for making said sale on each of the several days, I proceeded to offer for sale said land by public auction for the payment of said taxes, interest, costs and charges, and no person appeared at either time so fixed by adjournment for said sale and bid a sum equal to said taxes, interest, costs and charges,* until on the day of , A. D. 19 , the time and place so fixed for said sale by the last of the said adjournments [use such of these averments as will conform to the facts], I proceeded again to offer for sale by public auction for the payment of said taxes, interest, costs and charges, the smallest undivided part of said land sufficient for the payment of said taxes with interest and legal costs and charges, [and no person offering at said auction to take an undivided part of said land, the whole of said land was struck off to of in the county of and State of for the sum of dollars and cents, he being the highest bidder therefor:] [If an offer is made for an undivided part substitute for the portion in brackets the following: and of in the county of and State of offered at said auction to take one undivided part of said land and to pay therefor the amount of said taxes with interest and the legal costs and charges, and that being the smallest undivided part of said land offered to be taken for the payment of said taxes, interest, costs and charges, one undivided part of said land was struck off to said .]

Therefore, know ye, that I, the said Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the said sum of dollars and cents to me paid by said , the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said [the following described land, the same being the land taxed as aforesaid, to wit: Here describe the land.] [If a sale is made of an undivided part substitute for the words in brackets the following: one undivided part of the following described land, being the land taxed as aforesaid, to wit: Here describe the land.]

To have and to hold the same, to the said , h heirs and assigns, to and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same.

And I, the said collector, do covenant with the said , h heirs and assigns, that the sale aforesaid has, in all particulars, been conducted according to law.†

In witness whereof, I, the said , Collector as aforesaid, have hereunto set my hand and seal, this day of , in the year of our Lord one thousand nine hundred and .

[SEAL.]

Collector of Taxes for the of .

Signed, sealed and delivered in presence of .

ss. 19 .

Then personally appeared the above named , Collector of Taxes for the of , and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Justice of the Peace.

No. 15.—FORM OF DEED WHEN THE CITY OR TOWN IS THE PURCHASER UNDER SECTIONS 46 AND 48.

[Proceed as in No. 14 to the * and continue as follows:—] and no person appeared and bid for the estate thus offered for sale an amount equal to the said taxes, interest, costs and charges, and I thereupon, at said time and place appointed for sale, adjourned said sale until the day of A. D. 19 , at o'clock in the noon at the same place, and then and there made public proclamation of said adjournment; and in like manner in all respects and for the same cause I adjourned said sale [here state the successive dates, hours and places to which the sale was adjourned], and then and there made public proclamation of said adjournments; and at the time and place so fixed and proclaimed for making said sale on each of said several days, I proceeded to offer for sale said real estate by public auction for the payment of said taxes, interest, costs and charges, and no person appeared at either time so fixed by adjournment for said sale and bid a sum equal to said taxes, interest, costs and charges, and at the time and place so fixed for said sale by the last of the said adjournments, namely, on the day of , A. D. 19 , at o'clock in the noon, I made a public declaration of all the facts hereinbefore recited; and no person then appeared and bid a sum equal to said taxes, interest, costs and charges [if only one adjournment is made, change these averments to conform to the facts]; and I thereupon then and there immediately gave public notice that I should, and that I then and there did purchase on behalf of the said of , said real estate for the sum of dollars and cents, being the amount of said taxes, interest, costs and charges;

Therefore know ye, that I, the said , Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the premises, hereby give, grant, bargain, sell and convey unto the said of , the following described real estate, the same being the land taxed as aforesaid, to wit: [Here describe the estate.]

To have and to hold the same, to the said [city or town] of , and its assigns, to its and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same.

And I, the said Collector, do covenant with the said of , and its assigns, that the sale aforesaid has, in all particulars, been conducted according to law. [Conclude as in No. 14 from the †.]

No. 16.—FORM OF DEED TO CITY OR TOWN, WHEN THE PURCHASER FAILS TO PAY, ETC., UNDER SECTIONS 47 AND 48.

[Proceed as in No. 14 to the * and continue as follows:—] and the said real estate was struck off to of in the County of and State of for the sum of dollars and cents, he being the highest bidder therefor; and whereas, the said failed to pay to me the sum offered by him as aforesaid, and receive his deed of the premises bid off by him, within ten days after the said sale, and the said sale became null and void, and the said of thereby became the purchaser of the premises so bid off by the said for the sum of dollars and cents, being the amount of said taxes, interest, costs and charges;

Therefore know ye, that I, the said Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the premises, hereby give, grant, bargain, sell and convey unto the said of , the following described real estate, the same being the land taxed as aforesaid, to wit: [Here describe the estate.]

To have and to hold the same, to the said of , and its assigns, to its and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same.

And I, the said Collector, do covenant with the said of and its assigns, that the sale aforesaid has, in all particulars been conducted according to law. [Conclude as in No. 14 from the †.]

No. 17. — FORM OF NOTICE OF INTENTION TO TAKE REAL ESTATE UNDER SECTION 53.

COLLECTOR'S NOTICE.

The owners and occupants of the following-described parcels of real estate situate in the of , in the County of , and Commonwealth of Massachusetts, and all other persons, are hereby notified that the taxes thereon, severally assessed for the year hereinafter specified, according to the list committed to me as Collector of Taxes for the said of , by the Assessors of Taxes of said , remain unpaid, and that said parcels of real estate will be taken for the said of , on the day of A. D. 19 , at o'clock M., for the payment of said taxes, together with the interest, costs and charges thereon, unless the same shall be previously discharged. [Here state the name of owner or occupant, a description of the parcel or parcels of lands, the year for which the taxes were assessed, and the sum assessed upon each parcel.]

C D,
Collector of Taxes for the of .

No. 18. — FORM OF AFFIDAVIT OF DEMAND AND NOTICE TO BE ANNEXED TO THE INSTRUMENT OF TAKING UNDER SECTION 57.

I, C D, of in the County of , and Commonwealth of Massachusetts, on oath depose and say that on the day of A. D. 19 , I, as Collector of Taxes for the of , made a written demand on for the amount of the tax assessed by the assessors of said of , as of the first day of May, A. D. 19 , upon the said , with the interest, costs and charges, then due, on certain real estate situated in said of , by [Here state manner in which the demand was made], of which the following is a true copy: —

"COLLECTOR'S OFFICE, 19 .

To , I hereby demand of you the payment of dollars and cents, that being the amount of tax assessed for the year 19 by the assessors of , on the real estate [Here describe the estate] owned by you. You are hereby notified that if said amount, together with the interest, costs and charges thereon, is not paid within fourteen days from this date, the said real estate will be taken for said taxes for the said [city or town] of . Tax, $; interest, costs and charges, $.

C D,
Collector of Taxes for the of ."

[If notice is published and posted, add:] And I, the said C D, do further depose and say that I posted and published notices, of which the following is a copy [Here annex a copy of the notice], as follows: A copy thereof was posted on [Here state where posted], and I also published a copy of said notice in the , a newspaper published in said [If there be no such paper published in said town, state the fact and add, "in in said county"], three weeks successively, that the posting of said notices and the first publication thereof was more than fourteen days after making the demand as aforesaid; and I do further depose and say that, at the date of the instrument of taking, hereto annexed, the amount of taxes due on the estate therein described, with

the interest, costs and charges, amounted to the sum of dollars and cents, and that the parcel or parcels of land were taken for the reason that the taxes remained unpaid at the time of the said taking.

C D,
Collector of Taxes for the of .

ss. 19 .

Then personally appeared the above named C D, and made oath that the foregoing affidavit by him subscribed is true.

Before me,
Justice of the Peace.

No. 19.—FORM OF TAKING OF REAL ESTATE UNDER SECTION 54.

Whereas, the tax assessed by the assessors of as of the first day of May, in the year 19 , upon as the owner or occupant of the real estate hereinafter described, was duly committed to me as Collector of Taxes for said of ; and whereas, the said taxes, amounting to dollars and cents, have not been paid; and whereas, a demand for the payment of said taxes and the interest, costs and charges then due was made by me on the said on the day of , last past, in conformity to law; and whereas, notice of my intention to take said real estate by virtue of the authority vested in me as Collector of Taxes for said has been duly made, as by law required; and whereas, the said taxes, at the date of this instrument, remain unpaid; now, therefore, KNOW ALL MEN BY THESE PRESENTS, that I, , as Collector of Taxes as aforesaid, by virtue of the power and authority in me vested as aforesaid, have taken, and by these presents do take, for the said of , subject to redemption according to law, the following described lot or parcel of land, with the buildings thereon, the same being the estate assessed as aforesaid, to wit: [Here describe the estate.] The said is the only person known to me as owner of the above described estate.

In witness whereof, I, the said , as Collector as aforesaid, hereunto set my hand and seal this day of , in the year nineteen hundred and .

C D, [SEAL.]
Collector of Taxes for the of .

No. 20.—FORM OF DEED BY CITY OR TOWN WHEN ESTATE IS REDEEMED UNDER SECTION 58, TO BE EXECUTED BY THE PROPER OFFICERS OF THE CITY OR TOWN.

KNOW ALL MEN BY THESE PRESENTS,

That the of , in consideration of , to it paid by of , the receipt whereof is hereby acknowledged, does hereby remise, release, and forever quitclaim unto the said all the right, title and interest which the said of acquired, by or under a deed made to it by , the Collector of Taxes for said [city or town] of , dated the day of in the year of our Lord one thousand nine hundred and , and recorded with Deeds, Volume Page in and to the following parcel of real estate in said , viz.: [Here describe the estate.]

To have and to hold the above released premises, with all the privileges and appurtenances to the same belonging, to the said , h heirs and assigns, to h and their use and behoof forever.

In witness whereof, the said of has caused its corporate seal to be hereunto affixed, and these presents to be signed, acknowledged and delivered in its name and behalf by , its , hereto duly authorized, this day of , in the year of our Lord nineteen hundred and .

[City or Town] of . [SEAL.]
Signed and sealed in presence of .

By .

ss. 19 .

Then personally appeared the above named , of for the [city or town] of , and acknowledged the foregoing instrument to be the free act and deed of said [city or town] of .

Before me,
Justice of the Peace.

No. 21.—Form of Affidavit of a disinterested Person of Search for Purchaser, his Agent or Attorney when they cannot be found, under Section 60.

I, , on oath depose and say that in behalf of , who claims a right to redeem certain lands situated in the of , which were sold by , Collector of Taxes for said , for non-payment of taxes assessed upon and described in a deed of said Collector to , dated 19 , and recorded with Deeds, Volume Page I have made diligent search for said purchaser in the place of which he is described as a resident, and that I have also made diligent search for an agent or attorney of such purchaser, but after such diligent search have been unable to find either the purchaser or any such agent or attorney.

ss. , 19 .

Then personally appeared the above named and made oath that the foregoing statement by him subscribed is true.

Before me,

Justice of the Peace.

No. 22.—Form of Receipt by Collector to a Mortgagee, under Section 62.

Collector's Office, , 19 .

I, , Collector of Taxes for the of , hereby certify that the Assessors of Taxes of said of , in the list of assessments for taxes, which they committed to me to collect for the year one thousand nine hundred and , duly assessed the sum of dollars and cents, as owner of the real estate situated and described as follows, viz.: [Here describe the real estate.]

and I further certify that the said neglected to pay such tax for three months after demand, and I thereupon made a demand therefor upon who claimed to be the holder of a mortgage upon said real estate; and that the said has paid to me the sum of dollars and cents, being the amount of said tax, with all interest, costs and charges, the receipt of which I hereby acknowledge.

C D,

Collector of Taxes for the of .

ss. , 19 .

Then personally appeared the above named and made oath that the foregoing statement by him subscribed is true.

Before me,

Justice of the Peace.

No. 23.—Form of Receipt by Collector under Sections 63 and 65.

Collector's Office, , 19 .

I, , Collector of Taxes for the of , hereby certify that the Assessors of Taxes of said of , in the list of assessments for taxes, which they committed to me to collect for the year one thousand nine hundred and , duly assessed the sum of dollars and cents, as owner of the real estate situated and described as follows, viz.: [Here describe the real estate.]

and I further certify that proceedings have been commenced by me for the sale of said real estate for said tax, and that who claimed to be the holder of a mortgage thereon, has paid to me the sum of dollars and cents, being the amount of said tax, with interest, costs and charges, the receipt of which I hereby acknowledge.

C D,

Collector of Taxes for the of .

ss. , 19 .

Then personally appeared the above named and made oath that the foregoing statement by him subscribed is true.

Before me,

Justice of the Peace.

No. 24. — Form of Notice of Sale of unredeemed Real Estate, in behalf of a City or Town, within Two Years after Expiration of the Right of Redemption, under Section 67.

Sale of Unredeemed Real Estate by the of .

Collector's Office, , 19 .

In conformity with the laws of the Commonwealth of Massachusetts, the public and all persons interested as former owners or occupants of each of the following described parcels of real estate situated in the of in the County of and Commonwealth aforesaid, are hereby notified that said parcels have been conveyed according to law to said [city or town] of for non-payment of taxes and assessments and the time within which each of the estates might be redeemed by the owners thereof having expired, each of said parcels will be offered for sale in accordance with Section , of the by public auction at the in said on the day of A. D. 19 , at o'clock M., and to the highest bidder for each of the several parcels a quitclaim deed will be delivered. For further particulars reference is made to the Registry of Deeds for the County of , the volume and page numbers following the description of each parcel, indicating the record of the deed under which the said of now holds title to the estate described.

The sums set against the several estates show the amounts due thereon respectively for the taxes and assessments for the non-payment of which said estate was sold to [or taken by] the said together with the subsequent taxes and assessments, interest on the same, and all lawful costs and charges. And none of the said estates will be sold for less than the amount set against the said estates, respectively.

[Here set out the name of the original owner or occupant if known, a description of each parcel, the place of registry, volume and page, the years in which assessed and the least amount for which the sale will be made.]

C D,

Collector of Taxes for the of .

No. 25. — Form of Deed of Unredeemed Tax Title under Section 67.

KNOW ALL MEN BY THESE PRESENTS.

That, whereas the real estate hereinafter described was by deed of , Collector of Taxes, dated A. D. 19 , and recorded with Deeds, Volume Page , duly conveyed to the [city or town] of , in the County of and Commonwealth of Massachusetts, for the non-payment of taxes, and whereas no person lawfully entitled has, within the time prescribed by law, redeemed said real estate, and whereas I, the Collector of Taxes of the said [city or town] of , acting under section , of the , duly advertised said real estate to be sold by public auction on the day of , 19 , at o'clock in the noon, at the in said [city or town] of by publishing an advertisement thereof, containing a substantially accurate description of said real estate in the , a newspaper published in , three weeks successively, the last publication whereof was at least one week before the time appointed for the sale, and by posting a like advertisement in public and convenient place in said [city or town] of , to wit: the , in said [city or town] and also on said real estate, three weeks before the time appointed for said sale; and whereas, the amounts due on said estate not being paid, the [city or town] of by its Collector of Taxes, thereto duly authorized by statute, proceeded at the time and place appointed as aforesaid for the sale, to sell said real estate by public auction, and said real estate was then and there struck off to , of , in the County of , and State of , for the sum of dollars and cents, he being the highest bidder therefor;

Now, therefore, the [city or town] of by its Collector of Taxes, by virtue of the statutes in such case made and provided, in consideration of dollars and cents paid by said , the receipt whereof is hereby acknowledged, does hereby remise, release, and forever quitclaim unto the said , h heirs and assigns, all the right, title and interest which the said [city or town] of acquired, by or under the deed above mentioned, in and to the following parcel of real estate in said , viz.: [Here describe the estate.]

To have and to hold the above released premises, with all the privileges and appurtenances thereto belonging, to the said , h heirs and assigns, to h and their use and behoof forever.

In witness whereof, the said [city or town] of has caused its seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by its Collector of Taxes, hereto duly authorized by law, this day of , in the year nineteen hundred and .

[City or Town] of . [SEAL.]

C D,
Collector of Taxes.

[To be acknowledged by the Collector as the free act and deed of the City or Town according to the form prescribed in Form No. 20.]

No. 26. — FORM OF AFFIDAVIT OF THE COLLECTOR OF THE NON-APPEARANCE OF A PURCHASER, OR THE FAILURE OF THE BIDDER TO PAY THE SUM BID, UNDER SECTION 68.

I, C D, Collector of Taxes for the [city or town] of in the County of and Commonwealth of Massachusetts on oath depose and say that the advertisement of the sale of unredeemed real estate, a copy of which is hereto annexed, was published and posted according to law, and that at the time and place of sale as stated in the same [no person appeared and bid for the real estate advertised in said advertisement against the name of the sum or amount therein stated, or more, or the person to whom the estate is sold does not, within ten days, pay to the Collector the sum bid by him] and the estate advertised as aforesaid against the name of was struck off to , for the sum of dollars and cents, he being the highest bidder therefor. I further depose and say that said failed to pay to me as such Collector, within ten days, the sum offered by him for said estate.

C D,
Collector of Taxes for the of .

ss. 19 .

Then personally appeared the above named , Collector of Taxes for the of , and made oath that the above statement by him subscribed is true.

Before me,
Justice of the Peace.

[Here annex a copy of the advertisement.]

No. 27. — FORMS OF NOTICES WHEN TAX TITLE IS DEEMED INVALID, UNDER SECTIONS 70 AND 72.

[FROM THE ASSESSORS TO THE COLLECTOR.]

OFFICE OF THE BOARD OF ASSESSORS, 19 .

To the Collector of Taxes for the of .

Sir: You are hereby notified that the tax assessed as of the first day of May, 19 , in the name of upon an estate estimated to contain [here insert the area] land, situated [here insert the name of street or other description] was invalid by reason of error in assessment; and that any deed given by you in consequence of a sale for the non-payment of such tax conveyed no valid title to the purchaser.

Board of Assessors of the of , by
A B,
One of said Assessors.

No. 28. —

[FROM THE COLLECTOR TO THE HOLDER OF THE TITLE.]

COLLECTOR'S OFFICE, 19 .

To .

You are hereby notified that I have reason to believe that the title conveyed to by Collector and recorded with Deeds, volume page of an estate described as follows [here describe estate], in the name of is invalid by reason of an error [in the assessment for the year 19 , or in the pro-

ceedings for the sale.] [Here give a brief statement of the defect:] and I do hereby, , notify and require you, within thirty days from the time when this notice shall be served upon you, to surrender and discharge the deed so given, and to receive from the of the sum due therefor, with interest as provided by law, or to file with the Collector a written statement that you refuse to make such surrender and discharge.

C D,
Collector of Taxes for the of .

CHAPTER 14.

OF THE TAXATION OF CORPORATIONS.

SECTIONS 1–8. — Tax Commissioner.
SECTIONS 9–18. — Taxation of Bank Shares.
SECTIONS 19–22. — Taxation of Savings Banks.
SECTION 23. — Taxation of Co-operative Banks.
SECTIONS 24–34. — Taxation of Insurance Companies.
SECTIONS 35, 36. — Taxation of Trust Companies.
SECTIONS 37–42. — Taxation of Corporate Franchises.
SECTIONS 43–47. — Taxation of the Earnings of Street Railway Companies.
SECTION 48. — Taxation of Telegraph Companies.
SECTIONS 49–51. — Taxation of Mining and Quarrying Companies.
SECTION 52. — Taxation of Corporations formed to Construct Railroads in Foreign Countries.
SECTION 53. — Taxation of the Guaranty Capital of Mutual Fire Insurance Companies organized under General Laws, and of Shares in the Permanent Fund of Mutual Marine, and Mutual Fire and Marine, Insurance Companies.
SECTIONS 54–64. — Notice of Tax. Penalties.
SECTION 65. — Appeals and Board of Appeal.
SECTIONS 66–69. — Warrants for Collection and Applications for Relief.

TAX COMMISSIONER.

Tax commissioner, appointment, etc., salary. 1865, 283, § 12. 1870, 224, § 61. 1876, 155. 1879, 288, § 1. P. S. 13, § 1. 1887, 342, § 1. 1890, 160, § 1.

SECTION 1. There shall be a tax commissioner appointed by the governor, with the advice and consent of the council, who shall also be the commissioner of corporations, and who shall hold his office for three years from the date of his commission unless sooner removed by the governor. He shall receive in full compensation for the duties of both offices an annual salary of thirty-five hundred dollars.

Clerks and their salaries. 1876, 155. 1879, 288, § 2. 1881, 175. P. S. 11, § 97; 13, § 2. 1887, 342, § 2. 1891, 342.

SECTION 2. He shall appoint a deputy at a salary of twenty-five hundred dollars a year and may employ two permanent clerks, the first at a salary of two thousand dollars a year and the second at a salary of fifteen hundred dollars a year, and such additional clerical and other assistance as may be necessary at an expense not exceeding seventeen thousand dollars a year. 1898, 507, § 3. 1901, 449.

Annual report. 1873, 321, § 2. 1874, 227, § 3. 1881, 284, § 4. P. S. 13, § 6. 1882, 217, § 3. 1894, 184.

SECTION 3. He shall annually in January report to the general court the transactions of his office for the preceding year. This report shall include tabular statements of the amounts of exempted property returned under the provisions of section ninety-five of chapter twelve and of ships engaged in the foreign carrying trade.

He shall also submit therewith an abstract of such particulars from the lists of property held for literary, benevolent, charitable or scientific purposes as he shall deem for the public interest.

Tax commissioner to forward to assessors lists of taxable corporations, etc. 1867, 188, § 2. 1870, 144, § 1. P. S. 13, §§ 3, 4.

SECTION 4. He shall annually, on or before the twentieth day of June, forward to the assessors of every city and town a list of all corporations organized under the laws of this commonwealth, known to him to be liable on the preceding first day of May to taxation on their corporate franchises or property with copies of the list furnished by such corporation under the provisions of section six, and with such other information as in his judgment will assist them in the assessment of taxes.

Supervision of assessors. 1898, 507, § 3.

SECTION 5. He or his deputy may visit any city or town, inspect the work of its assessors and give to them such information and require of them such action as will tend to produce uniformity in valuation and assessments throughout the commonwealth. He or his deputy may cause an assessor who violates any of the laws relative to the assessment of taxes for which a penalty is imposed to be prosecuted, either in the county in which said officer resides or in an adjoining county. He or his deputy may appear before the superior court or any board of county commissioners sitting for the abatement of taxes. He and his deputy shall be allowed their reasonable travelling expenses incurred under the provisions of this section.

Corporations to make return of stock or bonds held as collateral. 1870, 144, § 1. P. S. 13, § 4.

SECTION 6. Every corporation organized under the laws of this commonwealth, which on the first day of May in any year holds, as collateral security, bonds of any description or shares of stock in corporations not liable to taxation on their corporate franchises or stock under the provisions of this chapter, shall annually, between the first and tenth day of May, return to the tax commissioner the whole number of such shares and bonds so held, the names and residences of the persons pledging the same, and the descriptive number, denomination, and the par and market value, if known, of the shares and bonds pledged by each.

Penalty for neglect to make return. 1870, 144, § 2. P. S. 13, § 5.

SECTION 7. A corporation neglecting or refusing to make the returns required by the preceding section, or wilfully making a return which is materially false or defective, shall forfeit for each offence not less than fifty nor more than one thousand dollars, to the use of the city or town in which the person pledging such stock or bonds resides.

Guardians, executors, administrators, trustees and partnerships to make returns of stock held. 1864, 208, § 4. 1865, 283, §§ 2, 11. 1875, 315, § 15. P. S. 13, § 7.

SECTION 8. A guardian who holds, or whose ward holds, shares of stock in any corporation, including banks located in the commonwealth liable to taxation, and an executor, administrator, trustee or other person who holds in trust any such stock, shall annually, between the first and tenth day of May, return under oath to said commissioner the names and residences, on the first day of that month, of themselves and of all such wards or other persons to whom any portion of the income from such stock is payable, the number of shares of stock so held and the name and location of the corporation.

A partnership shall annually, between the first and tenth days of May, make a like return, stating the amount of such stock owned by the firm, the names and residences of all the partners and the proportional interest or ownership of each partner in said stock.

TAXATION OF BANK SHARES.

Taxation of bank shares. 1868, 349, § 1. 1871, 390, § 1. 1872, 321, §§ 4, 5. 1873, 315, § 1. P. S. 13, § 8. 14 Allen, 359. 99 Mass. 141. 101 Mass. 575. 104 Mass. 586. 112 Mass. 384. 123 Mass. 375. 135 Mass. 569. 138 Mass. 527. 155 Mass. 313. 175 Mass. 262. 3 Wallace, 585. 7 Wallace, 694. 125 U. S. 60.

SECTION 9. All the shares of stock in banks, whether of issue or not, existing by authority of the United States or of the commonwealth, and located within the commonwealth, shall be assessed to the owner thereof in the city or town in which such bank is located, and not elsewhere, in the assessment of state, county and town taxes, whether such owner is a resident of said city or town or not. They shall be assessed at their fair cash value on the first day of May, first deducting therefrom the proportionate part of the value of the real estate belonging to the bank, at the same rate as other moneyed capital in the hands of citizens is by law assessed. The persons who appear from the books of the banks to be owners of shares at the close of the business day last preceding the first day of May shall be deemed to be the owners thereof.

Payment of tax. Recovery thereof. 1873, 315, § 2. P. S. 13, § 9. 138 Mass. 529. 145 Mass. 110. 125 U. S. 60.

SECTION 10. Every such bank shall pay the tax so assessed to the collector or other person authorized to receive the same at the time when other taxes in the city or town become due. If not so paid, said tax, with interest thereon at the rate of twelve per cent per annum from the day when it became due, may be recovered from said bank in an action of contract by the collector of such city or town.

Lien on shares for payment of taxes. 1868, 349, § 2. 1871, 390, § 2. 1872, 321, § 9. 1873, 315, § 3. P. S. 13, § 10.

SECTION 11. The shares of such banks shall be subject to the tax paid thereon by the corporation or by the officers thereof, and the corporation and the officers thereof shall have a lien on all the shares in such bank and on all the rights and property of the shareholders in the corporate property for the payment of said taxes.

138 Mass. 529. 125 U. S. 60.

Statement to assessors of names, etc., of shareholders. 1871, 390, § 5. 1872, 321, §§ 1, 2, 10. 1873, 315, § 5. P. S. 13, § 11. 138 Mass. 529. 155 Mass. 313.

SECTION 12. The cashier of every such bank shall make and deliver to the assessors of the city or town in which it is located, on or before the tenth day of May in each year, a statement under oath showing the name of each shareholder, with his residence and the number of shares belonging to him at the close of the business day last preceding the first day of May, as the same then appeared on the books of said bank. If the cashier fails to make such statement, said assessors shall forthwith obtain a list of the names and residences of shareholders and of the number of shares belonging to each. They shall, forthwith, upon obtaining such statement or list, transmit a copy thereof to the tax commissioner; and shall, immediately upon the ascertainment of the rate per cent upon the valuation of the total tax in such city or town for the year, give to said commissioner written notice thereof, and also of the amount assessed by them upon the shares of each bank located therein.

Determination of amount of offsets and credits; notice; appeal. 1871, 390, §§ 6-8. 1873, 315, §§ 6-8.

SECTION 13. Said commissioner shall thereupon determine the amount of the tax assessed upon shares in each of said banks which would not be liable to taxation in said city or town according to the provisions of chapter twelve; and such amount shall be a

P. S. 13, §§ 12–14. 135 Mass. 569. 138 Mass. 529.

charge against said city or town. He shall, in like manner, determine the amount of tax so assessed upon shares which would be so liable to taxation in each city or town other than that in which the bank is located; and such amount shall be a credit to each city or town. He shall forthwith give notice in writing by mail or at their office to the assessors of each city or town thereby affected of the aggregate amount so charged against and credited to it; and they may within ten days after notice of such determination appeal therefrom to the board of appeal constituted under the provisions of section sixty-five.

Certification of aggregate charges and credits. 1871, 390, § 9. 1873, 315, § 9. P. S. 13, § 15. 138 Mass. 529.

SECTION 14. He shall, at the expiration of ten days after said notice or upon being informed of the decision of the board of appeal, if an appeal is taken, certify to the treasurer and receiver general the aggregate amount of charges against, and credits to, each city or town, as so determined; and the treasurer and receiver general shall thereupon withhold out of any sums payable by the commonwealth to any city or town against which a charge is certified, or shall allow or pay over to each city or town to which a credit is certified, as the case may be, the amount so certified.

Allowance for expense of assessment and collection. 1873, 315, §§ 10, 11. P. S. 13, § 16. 135 Mass. 569. 138 Mass. 530.

SECTION 15. In such adjustment of charges and credits, one per cent upon the amount assessed and collected shall be allowed for the expense of assessment and collection. No city or town shall in any year be entitled to an allowance of credits or payments under the provisions of this chapter until the assessors have complied with the requirements thereof and with section thirty-six of chapter twelve, relative to the taxation of bank shares. No bank, the shares in which are liable to taxation by section nine, shall be liable thereto under the provisions of section forty, nor shall the shareholders be liable to taxation for their shares therein for any purpose, except under the provisions of this chapter.

Deduction of bank taxes paid by savings banks and insurance companies. 1873, 315, § 12. 1881, 305, § 2. P. S. 13, § 17.

SECTION 16. The amount actually paid into the treasury of the commonwealth annually, under the provisions of this chapter, on account of shares in banks, which on the first day of May are the absolute property of any savings bank or institution for savings liable to taxation under the provisions of section nineteen, or of any insurance company liable to taxation under the provisions of section forty, shall be deducted from the taxes of such savings bank or insurance company at the next payment by them to the commonwealth after the collection of the taxes on such bank shares. The tax commissioner may require a statement of all shares so owned by any savings bank, institution for savings or insurance company, in a form approved by him and signed and sworn to by the treasurer or like financial officer thereof. He shall, from such statement and other evidence and subject to appeal by such corporation, as herein provided in similar cases, determine the amounts to be deducted, and certify the same to the treasurer and receiver general upon the final determination thereof; but the amount so to be deducted from the tax payable by any savings bank or institution for savings shall not, in any year, exceed the amount of the tax assessed on account of that portion of its deposits invested in shares in banks.

SECTION 17. The tax commissioner shall annually, as soon as may be after the first Monday in December, certify to the treasurer and receiver general the amounts assessed and collected for that year in respect of shares in such banks or other corporations owned absolutely by any society, district or institution of the classes specified in clauses three and four of section five of chapter twelve, and the treasurer and receiver general shall thereupon pay over such amounts to such society, district or institution owning such shares.

Certification of bank taxes assessed and collected.
1873, 315, § 13.
P. S. 13, § 18.
135 Mass. 569.

SECTION 18. The assessors of a city or town, upon request of any person resident therein who is the owner of any shares in such banks or other corporations which, under the provisions of clauses nine and ten of section five of chapter twelve, would be entitled to exemption from taxation, shall give to him a certificate stating such fact; and the treasurer of such city or town, upon request therefor, and the deposit with him of such certificate, shall pay over to such owner the amount so collected in respect of such shares, immediately upon the allowance made to such city or town under the provisions of this chapter.

Reimbursement of exempted shareholder.
1872, 321, § 12.
1873, 315, § 14.
P. S. 13, § 19.

TAXATION OF SAVINGS BANKS.

SECTION 19. Every savings bank and institution for savings shall pay to the treasurer and receiver general, on account of its depositors, an annual tax of one-half of one per cent on the amount of its deposits, one-half thereof to be assessed by the tax commissioner upon the average amount of such deposits for the six months preceding the first day of May and one-half to be so assessed upon the average amount of such deposits for the six months preceding the first day of November. Such tax shall be paid semi-annually within ten days after the first Monday of June and of December, each payment to consist of the amount of the tax as determined by the last preceding assessment; but so much of said deposits as is invested in real estate for banking purposes or in loans secured by mortgages of taxable real estate, and, for the period limited in clause nine of section twenty-six of chapter one hundred and thirteen, so much of said deposits as is invested in real estate the title to which has been acquired by the completion of foreclosure, or by purchase, pursuant to said section, shall be exempt from taxation under the provisions of this section.

Taxation of deposits in savings banks.
1862, 224, §§ 4, 5.
1863, 164.
1865, 267.
1868, 315.
1879, 115.
1881, 304, §§ 8, 9; 305, § 1.
P. S. 13, § 20.
1890, 160, § 4.
5 Allen, 428.
12 Allen, 312.
123 Mass. 493.
126 Mass. 526.
149 Mass. 4.
151 Mass. 103.
6 Wallace, 611.
178 U. S. 120.

SECTION 20. Every savings bank and institution for savings shall semi-annually, on or before the second Monday of May and of November, make a return to the tax commissioner, signed and sworn to by its president and treasurer, of the amount of its deposits on the first day of said May and November, and of the average amount of its deposits for the six months preceding each of said days. Every such corporation which neglects to make such return shall forfeit fifty dollars for each day during which such neglect continues. If it wilfully makes a false statement in such return it shall be punished by a fine of not less than five hundred nor more than five thousand dollars.

Semi-annual returns. Contents.
1862, 224, §§ 8, 9.
P. S. 13, § 21.
1890, 160, § 4.
123 Mass. 497.

Deposits taxed by commonwealth otherwise exempt.
1862, 224, § 12.

SECTION 21. All deposits taxed under the provisions of section nineteen shall be otherwise exempt from taxation in any year in which said tax is paid.

1864, 208, § 15. P. S. 13, § 23.
5 Allen, 435. 100 Mass. 184. 123 Mass. 496. 151 Mass. 103.

Taxation of the Massachusetts Hospital Life Insurance Company.
1862, 224, §§ 3, 7, 9.
1865, 283, § 18.
1881, 304, § 8.
P. S. 13, § 51.
151 Mass. 103.

SECTION 22. The Massachusetts Hospital Life Insurance Company shall annually, on or before the second Monday of May and November, make a return, signed and sworn to by a majority of its board of directors, of the full amount of all money and property, in detail, in its possession or charge as deposits, trust funds or for purposes of investment, and shall pay upon all the same, except upon deposits invested in loans secured by mortgages of taxable real estate, the same rate of tax imposed upon savings banks on account of deposits. If said corporation neglects to make such return, it shall forfeit fifty dollars for each day such neglect continues; and if it wilfully makes a false statement in any such return, it shall be punished by a fine of not less than five hundred nor more than five thousand dollars.

TAXATION OF CO-OPERATIVE BANKS.

— of co-operative banks.
1890, 63.

SECTION 23. The capital stock, corporate franchises and personal property, but not the real estate, of co-operative banks shall be exempt from taxation.

TAXATION OF INSURANCE COMPANIES.

— of life insurance companies.
1880, 227, §§ 1, 2.
1881, 219.
P. S. 13, §§ 25, 26.
1887, 283, § 1.
133 Mass. 161.

SECTION 24. A domestic or foreign company or association, which is engaged, by its officers or by agents as defined in chapter one hundred and eighteen, in the business of life insurance within this commonwealth shall annually, on or before the tenth day of May, make a return to the tax commissioner, signed and sworn to by its president and secretary, giving the number, date and class of the policies so held, the age of the assured life and the aggregate net value of each group requiring a separate computation to determine their net value and the combined aggregate, and shall annually pay an excise tax of one-quarter of one per cent upon the net value of all policies in force on the preceding thirty-first day of December, issued or assumed by such company and held by residents of the commonwealth, as determined by the tax commissioner upon such return and such other evidence as he may obtain.

What persons and corporations are to be deemed residents.
1880, 227, § 3.
P. S. 13, § 27.

SECTION 25. For the purpose of the preceding section all persons or corporations shall be deemed residents of the commonwealth who, under the provisions of chapter twelve, are made liable to taxation on account of personal property owned or held by or for them in trust, pledge, or otherwise, other than that mentioned in clauses one, two and three of section twenty-three of said chapter.

Taxation of domestic fire, marine and other insurance companies.
1862, 224, §§ 1, 6.
1872, 245.
1873, 141, § 1.

SECTION 26. A domestic fire, marine, fire and marine, real estate title and other insurance company, except life insurance companies and except companies liable to taxation on their corporate franchise under the provisions of this chapter, shall annually pay a tax or excise of one per cent on all premiums received for insur-

ance during the preceding year whether in cash or in notes absolutely payable, and one per cent on all assessments made by such company upon policy-holders; but premiums received in other states where they are subject to a like tax shall not be so assessed. P. S. 13, § 29. 1884, 180, § 5. 1894, 522, § 64.

SECTION 27. A fire, marine, fire and marine and other insurance company, association or partnership, including associations formed upon the plan known as Lloyds, incorporated or associated by authority of any other state of the United States, shall annually pay a tax or excise upon all premiums charged or received on contracts made in this commonwealth for the insurance of property or interests therein, or received or collected by agents in this commonwealth, at the rate of two per cent, and at such greater rate, if any, as shall be equal to the highest rate imposed during the year by the laws of such other state upon insurance companies incorporated by authority of this commonwealth, or upon their agents, when doing business in such state. Taxation of like companies incorporated in other states. 1862, 224, § 2. 1873, 141, § 2. 1878, 218, § 3. P. S. 13, § 30. 100 Mass. 531.

SECTION 28. A life insurance company, association or partnership, incorporated or associated by authority of any other state of the United States, by the laws of which a tax is imposed upon the premium receipts of life insurance companies chartered by this commonwealth and doing business in such state, or upon their agents, shall annually, so long as such laws continue in force, pay a tax or excise upon all premiums charged or received upon contracts made in this commonwealth, at a rate equal to the highest rate so imposed during the year. —of life insurance companies incorporated in states imposing taxes on life companies of this state doing business therein. 1873, 141, § 3. P. S. 13, § 31.

SECTION 29. Every fire, marine, fire and marine, and other insurance company, association or partnership, including associations formed upon the plan known as Lloyds, incorporated or associated under the laws of any government or state other than one of the United States, shall annually pay a tax of four per cent upon all premiums charged on contracts made in this commonwealth for insurance, or collected by agents in this commonwealth: *provided*, that when the tax commissioner is satisfied that any such company has, during the whole term for which the tax is to be assessed, kept on deposit with the insurance or other department of any state of the United States, or in the hands of trustees, resident in and citizens of such states, for the general benefit and security of all policy-holders residing in the United States, securities approved by the insurance commissioner of the value of two hundred thousand dollars, which have been at all times available for the payment of losses in this commonwealth, the tax upon the premiums of such company shall be assessed at the rate of two per cent. The certificate of the insurance commissioner may be received by the tax commissioner as sufficient evidence that such securities have been so deposited. —of fire, marine and other companies incorporated by foreign governments. 1872, 228; 325, § 8. 1873, 141, § 4. 1878, 218, § 3. P. S. 13, § 32. 100 Mass. 531.

SECTION 30. Every foreign insurance company subject to the provisions of chapter one hundred and eighteen, engaged in the business of insuring against accident to the person, of insuring employers against liability for accidents to employees, of acting as surety upon bonds or of guaranteeing the fidelity of employees —of foreign accident, fidelity and guaranty insurance companies. 1890, 197, § 1.

shall pay an annual tax or excise of two per cent upon all premiums charged or received on contracts of insurance or guaranty made in this commonwealth, or received or collected by agents therein.

Deductions.
1868, 165, § 1.
1873, 141, § 5.
P. S. 13, § 33.
1888, 154.
1890, 197, § 2.
1892, 129.
1894, 522, § 84.
1898, 537, § 2.

SECTION 31. In determining the amount of the tax payable under the five preceding sections, all unused balances on notes taken for premiums on open policies, all sums paid for return premiums on cancelled policies, and all sums actually paid either to other domestic insurance companies or to the agents of foreign companies for re-insurance on risks, the premium on which, but for such re-insurance, would be liable to taxation, shall, in each case, be deducted from the full amount of premiums and assessments; but no deduction shall be allowed of sums paid for re-insurance effected otherwise than by licensed resident agents nor shall dividends in scrip or otherwise in stock, mutual or mixed companies be considered as return premiums.

Returns of insurance companies.
1873, 141, § 7.
1878, 218, § 3.
P. S. 13, § 34.
1887, 283, § 2.
1890, 197, § 2.
1892, 129.

SECTION 32. Every company liable to taxation under the provisions of sections twenty-six and thirty shall annually, between the first and fifteenth days of November, make a return to the tax commissioner, signed and sworn to by its secretary or other officer having knowledge of the facts, stating the amount insured by said company, and the premiums received and assessments collected by it during the year ending on the preceding thirty-first day of October. Every foreign company, association or partnership, including associations formed upon the plan known as Lloyds, authorized to do business in the commonwealth, shall annually, between the first and fifteenth days of November, make a return to the tax commissioner, in such form as he shall prescribe, signed and sworn to by its secretary, manager or other officer having knowledge of the facts, of the amount insured by it upon property or interests in this commonwealth, and the premiums and assessments upon such insurance charged on contracts made by it or its agents in this commonwealth during the year ending on the preceding thirty-first day of October. Such returns shall state the whole amount of premiums charged by or in behalf of said company, association and partnership either in cash or in notes absolutely payable, the amount claimed as a deduction therefrom under any of the provisions of this chapter, and also the classes of deductions and the amount of each class.

Assessment and notice to companies.
1873, 141, § 8.
1878, 218, § 3.
P. S. 13, § 35.
1890, 197, § 2.
1892, 129.

SECTION 33. The tax commissioner, from such returns, and from such other evidence as he may obtain, shall assess upon such companies, associations and partnerships, including associations formed upon the plan known as Lloyds, and their agents, the taxes imposed by sections twenty-six to twenty-nine, inclusive, and shall forthwith upon making such assessment give notice in writing to such companies, associations and partnerships, or their agents in the commonwealth, stating the respective amounts payable by them. Such taxes shall be paid to the treasurer and receiver general on the tenth day of December next following the date fixed for making the returns. The tax commissioner shall annually, on or before the tenth day of December, deliver to the treasurer and receiver gen-

eral a certificate stating the name of every such company, association, partnership and agent upon whom such tax has then been assessed, and the amount assessed upon each, and a like certificate of such further assessments as may be made after that date. All such taxes, whether assessed before or after the tenth day of December, shall bear interest at the rate of twelve per cent per annum from that date until they are paid.

Recovery of tax and injunction. 1873, 141, § 10. 1878, 218, § 3. P. S. 13, § 37. 1887, 283, § 3. 1890, 197, § 2 1892, 129.

SECTION 34. Every domestic or foreign insurance company, association or partnership shall be liable for the full amount of all taxes so assessed upon it or its agents which, with interest at the rate of twelve per cent per annum, may be recovered in an action of contract brought by the treasurer and receiver general in the name of the commonwealth. It shall further be liable, upon an information, to an injunction restraining it and its agents from the further prosecution of its business until all taxes due with costs and interest are fully paid.

TAXATION OF TRUST COMPANIES.

Returns and taxation of trust companies. 1888, 413, §§ 21, 22.

SECTION 35. Every domestic trust company incorporated subsequent to the twenty-eighth day of May in the year eighteen hundred and eighty-eight and subject to the provisions of chapter one hundred and sixteen, shall annually, between the first and tenth days of May, make a return to the tax commissioner, signed and sworn to by some officer of the corporation, of all personal property held upon any trust on the first day of May which would be liable to taxation if held by any other trustee residing in this commonwealth, the name of each city and town in this commonwealth where any beneficiaries resided on said day, the aggregate amount of such property then held for all the beneficiaries resident in each of such places, and also the aggregate amount held for beneficiaries not resident in this commonwealth.

It shall also, at the same time and in like manner, make a return of all sums deposited with it on interest or for investment, other than those held in trust or subject to withdrawal upon demand or upon not more than ten days' notice, with the name of each city and town in this commonwealth in which any beneficial owners resided on said first day of May, and the aggregate amount of such deposits then held for the benefit of persons residing in each of such cities and towns. Such company shall annually pay to the treasurer and receiver general a tax to be assessed by the tax commissioner upon the total value of such personal property held in trust at the rate determined by him under the provisions of section forty, and to be so assessed upon the total value of such deposits so held on interest or for investment at three-fourths of such rate.

Taxation of trust companies, etc. P. S. 13, § 52. 1888, 413, §§ 21, 23.

SECTION 36. All trust companies and other moneyed corporations incorporated in the commonwealth shall be subject to the provisions of this chapter so far as they are not inconsistent with the provisions of their special charters.

TAXATION OF CORPORATE FRANCHISES.

Annual returns to tax commissioner.
1864, 208, §§ 2, 3.
1865, 283, § 3.
1880, 117, § 2.
P. S. 13, § 38.
1885, 238, § 1.
1886, 270.
1888, 413, § 24.
1898, 417; 578, § 2.
12 Allen, 75.
98 Mass. 25.
139 Mass. 561.
144 Mass. 598.
146 Mass. 408.
157 Mass. 70.
[1 Op. A. G. 278.]

SECTION 37. Every corporation organized under the general or special laws of the commonwealth for purposes of business or profit, having a capital stock divided into shares, except banks whose shares are otherwise taxable under the provisions of this chapter and except those specified in sections forty-nine, fifty and fifty-two, in addition to all returns required by its charter, shall annually, between the first and tenth days of May, return to the tax commissioner, under the oath of its treasurer, a complete list of its shareholders, their residences, the number of shares belonging to each, the amount of the capital stock of the corporation, its place of business and the par value and market value of the shares made up as of said first day of May. If stock is held as collateral security, such return shall state the name and residence of the pledgor and of the pledgee. It shall also contain a statement in detail of the works, structures, real estate and machinery owned by said corporation and subject to local taxation within the commonwealth, and of the location and value thereof. Railroad and telegraph companies and street railway companies, whether chartered or organized in this commonwealth or elsewhere, shall also state in their return the whole length of their lines, and so much of the length of their lines as is without the commonwealth. Street railway companies shall also state in their return the length of track operated by them in each city and town on the thirtieth day of September preceding the return, to be determined by measuring as single track the total length of all tracks operated by them including sidings and turn-outs, whether owned or leased by them or over which they have trackage rights only, and the amount of dividends paid on their capital stock during the year ending on such preceding thirtieth day of September and during each year from the organization of the company. Telephone companies organized under the general or special laws of this commonwealth and manufacturing, owning, using, selling or licensing others to use telephones or other apparatus or appliances pertaining thereto wholly or partially within this commonwealth, and all such companies incorporated without the commonwealth for the purpose of establishing, owning or licensing others to use such telephones, apparatus or appliances, but having in use within it any of their lines or telephones, shall also state in their return, in such form as the tax commissioner may require, the facts necessary to ascertain the deductions authorized by the following section. Such domestic companies may annually, between the first and tenth days of May, make a return to the tax commissioner, signed and sworn to by their president, treasurer and clerk, specifying the amount and market value of all stocks in other corporations held by them upon which a tax has been assessed and actually paid either in this or in any other state for the year preceding the date of said return; and the books, accounts and papers of such corporations shall be examined by the tax commissioner so far as may be necessary for the verification of said return. Other corporations required to make a return under the provisions of this section shall also state therein the amount, value and location of all works, structures, real estate and machinery owned by them and subject to local taxation without the commonwealth.

SECTION 38. The tax commissioner shall ascertain from the returns or otherwise the true market value of the shares of each corporation subject to the requirements of the preceding section, and shall estimate therefrom the fair cash value of all of said shares constituting its capital stock on the preceding first day of May, which, unless by the charter of a corporation a different method of ascertaining such value is provided, shall, for the purposes of this chapter, be taken as the true value of its corporate franchise. From such value there shall be deducted:

Valuation of corporate franchise, etc. Deductions.
1864, 208, §§ 5, 6.
1865, 283, §§ 4, 5.
1880, 117, § 2.
P.S. 13, §§ 39, 40.
1885, 238, § 1.
1886, 270.
1898, 417.
13 Allen, 391.
98 Mass. 19, 25.
100 Mass. 184, 399.
125 Mass. 568.
137 Mass. 80.
139 Mass. 561.
144 Mass. 598.
146 Mass. 408.
152 Mass. 372.
157 Mass. 70.
167 Mass. 522.
163 U. S. 1.

First, In case of a railroad or telegraph company or of a street railway company whether chartered or organized in this commonwealth or elsewhere, so much of the value of its capital stock as is proportional to the length of that part of its line, if any, lying without the commonwealth; and also the value of its real estate and machinery subject to local taxation within the commonwealth.

Second, In case of such a domestic telephone company, the amount and market value of all stock in other corporations held by it upon which a tax has been paid in this or other states for the twelve months last preceding the date of the return; and in case of such a foreign telephone company, so much of the value of its capital stock as is proportional to the number of telephones used or controlled by it or under any letters patent owned or controlled by it without the commonwealth. In case of a telephone company, whether chartered or organized in this commonwealth or elsewhere, the value of its real estate and machinery subject to local taxation within the commonwealth.

Third, In case of corporations subject to the requirements of the preceding section other than railroad, telegraph, telephone or street railway companies, whether chartered or organized in this commonwealth or elsewhere, the value as found by the tax commissioner of their real estate and machinery subject to local taxation wherever situated.

For the purposes of this section, the tax commissioner may take the value at which such real estate and machinery is assessed at the place where it is located as the true value, but such local assessment shall not be conclusive of the true value thereof.

SECTION 39. The tax commissioner may require a corporation to prosecute an appeal from the valuation of its real estate or machinery by the assessors of a city or town, either to the county commissioners or to the superior court, whose decision shall be conclusive upon the question of value. Upon such appeal the tax commissioner may be heard, and in the superior court costs may be awarded as justice requires.

Corporation to appeal from local valuation, when.
1865, 283, § 6.
P. S. 13, § 41.
1890, 127, § 7.
1898, 417.

SECTION 40. Every corporation subject to the provisions of section thirty-seven shall annually pay a tax upon its corporate franchise, after making the deductions provided for in section thirty-eight, at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during the same year as returned by the assessors of the several cities and towns under the provisions of section ninety-three of chapter twelve upon the aggregate valuation of all cities and towns for the preceding year as returned under sections sixty and

Tax to be paid on corporate franchise. Rate, how determined.
1864, 208, § 5.
1865, 283, § 5.
1880, 117, § 2.
P. S. 13, § 40.
1885, 238, § 1.
1886, 270.
1888, 413, § 24.
1898, 417.
12 Allen, 75, 298.
98 Mass. 19, 25.
99 Mass. 146, 151.

105 Mass. 527. 135 Mass. 569. 137 Mass. 80. 139 Mass. 561. 146 Mass. 408. 157 Mass. 70. 167 Mass. 522. 6 Wallace, 632. 178 U. S. 120.

sixty-one of said chapter; but if the return from any city or town is not received prior to the twentieth day of August, the amount raised by taxation in said city or town for the preceding year, as certified to the secretary of the commonwealth, may be adopted for the purpose of this determination. The amount of tax assessed upon polls for the preceding year, as certified to the secretary, may be taken as the amount of poll tax to be deducted from the whole amount to be raised by taxation, in ascertaining the amount to be raised upon property.

Additional tax on street railway companies. 1898, 417; 578, § 3.

SECTION 41. If an operating street railway company, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, has paid during the year ending on the thirtieth day of September preceding the date of the return required by section thirty-seven dividends exceeding in the aggregate eight per cent upon its capital stock, it shall for every such year in addition to the tax required by the preceding section pay a tax equal to the amount of such excess to be determined as therein provided by the tax commissioner; but such additional tax shall not be imposed if, from the date when the company commenced to operate its road, it has not paid dividends equivalent in the aggregate to at least six per cent per annum upon its capital stock from year to year.

Remedy of corporation when assessor's valuation of real estate exceeds tax commissioner's. 1865, 283, § 6. P. S. 13, § 41. 1898, 417. 137 Mass. 81. 146 Mass. 403. 152 Mass. 384. 167 Mass. 522.

SECTION 42. If the value of the real estate and machinery of a corporation subject to local taxation within the commonwealth, as determined by the tax commissioner, is less than the value thereof as determined by the assessors of the place where it is situated, he shall give notice of his determination to such corporation; and, unless within one month after the date of such notice it applies to said assessors for an abatement and, upon their refusal to grant an abatement, prosecutes an appeal under the provisions of section seventy-seven of chapter twelve, giving notice thereof to the tax commissioner, the valuation of said commissioner shall be conclusive upon said corporation.

TAXATION OF THE EARNINGS OF STREET RAILWAY COMPANIES.

Returns of street railway companies to assessors. 1898, 417; 578, § 6.

SECTION 43. A street railway company, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, shall annually, on or before the fifteenth day of October, make and file in the office of the board of assessors of every city and town in which any part of the railway operated by it is situated a return signed and sworn to by its president and treasurer stating the length of track operated by it in public ways in such city or town and also the total length of track operated by it in public ways, determined as provided in section thirty-seven, and also the amount of its gross receipts during the year ending on the preceding thirtieth day of September, including therein all amounts received by it from the operation of its railway, but excluding income derived from sale of power, rental of tracks or other sources.

SECTION 44. On or before the first day of November annually the assessors of every city and town in which a street railway is operated, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, shall assess on each company described in the preceding section operating a railway therein an excise tax of an amount equal to such proportion of the following percentages of the gross receipts of such company as the length of tracks operated by it in public ways of such city or town bears to the total length of tracks operated by it in public ways. Excise tax. 1898, 417; 578, § 7.

The percentages shall be based upon the annual gross receipts for each mile of track as follows and computed upon the aggregate of said annual gross receipts: four thousand dollars or less, one per cent; more than four thousand dollars and less than seven thousand, two per cent; more than seven thousand dollars and less than fourteen thousand, two and one-quarter per cent; more than fourteen thousand dollars and less than twenty-one thousand, two and one-half per cent; more than twenty-one thousand dollars and less than twenty-eight thousand, two and three-quarters per cent; twenty-eight thousand dollars or more, three per cent.

The excise tax provided by this section shall be in addition to the taxes now provided by law.

SECTION 45. The aldermen of a city, the selectmen of a town or a street railway company operating in such city or town may petition the board of railroad commissioners for a revision of the amount of the excise tax to be paid by a company under the provisions of the preceding section. Said board shall, upon such petition, after public notice and a hearing at which said aldermen or selectmen and said company may submit evidence, determine the average annual cost to said city or town of the work done by it during the preceding three years under the provisions of chapter one hundred and twelve which it was not by law required to do prior to the first day of October in the year eighteen hundred and ninety-eight, and also the average annual payments made by said company to said city or town under and pursuant to the provisions of the preceding section during said three years; and having determined said average annual cost and average annual payments, said board shall fix and determine the proportion of a percentage of the gross receipts which shall be paid as an excise tax under the provisions of said section by the company to said city or town annually thereafter, said percentage to be fixed at such a rate as will be necessary to yield to said city or town annually thereafter an amount equal to the average annual cost to said city or town determined as aforesaid; and the percentage so fixed shall not be again changed for the period of three years and only in the manner herein provided. Said board may at any time upon petition therefor by a city or town entitled to a part of the excise tax paid by a street railway company, after such notice as the board may order to all other cities and towns entitled to share in the excise tax paid by said company, and after a hearing, determine as to the distribution thereof among the several cities and towns in which such company operated any part of its railway, and fix the proportions thereof to which they shall respectively be en- Revision of tax. 1898, 578, § 8.

titled, which shall thereafter be the proportions of said excise tax to be assessed upon said company, instead of the proportion based upon length of tracks as hereinbefore provided.

Notice to tax collector of amount of excise tax. 1898, 578, § 9.

SECTION 46. Prior to the fifteenth day of November in each year the assessors of every city and town shall notify the collector of taxes thereof of the amount of excise tax assessed therein under the provisions of section forty-four, and the collector shall forthwith notify the treasurer of every street railway company of the amount of excise tax so assessed upon it, which shall become due and payable within thirty days after the receipt of such notice. The provisions of chapter thirteen, so far as appropriate, shall apply to the collection of such excise tax.

Application of taxes. 1898, 578, § 10.

SECTION 47. All taxes which are collected from street railway companies and paid to cities and towns under the provisions of the preceding section, of section sixty-two of this chapter and of section twenty-eight of chapter five hundred and seventy-eight of the acts of the year eighteen hundred and ninety-eight shall be applied toward the construction, repair and maintenance of the public ways and removal of snow therefrom within such cities and towns.

TAXATION OF TELEGRAPH COMPANIES.

Returns and tax of foreign telegraph companies. 1864, 208, § 9. 1865, 283, § 7. P. S. 13, § 42. 139 Mass. 564. 125 U. S. 530. 141 U. S. 40. 163 U. S. 1.

SECTION 48. Every corporation or association chartered or organized without the commonwealth which owns, controls or uses a line of telegraph within the commonwealth, shall make the returns required in section thirty-seven to be made by telegraph companies within the commonwealth, except the list of its shareholders; and shall annually pay a tax at the rate determined in the manner provided in section forty; and all telegraph lines within the commonwealth controlled and used by such corporation or association, shall, for the purposes of this chapter, be deemed to be a part of its own lines.

TAXATION OF MINING AND QUARRYING COMPANIES.

— of domestic mining, etc., companies doing business without the commonwealth. 1864, 208, § 10. 1865, 283, § 8. P. S. 13, § 43. 139 Mass. 562.

SECTION 49. Every corporation organized under the laws of the commonwealth for the purposes of engaging without its limits in the business of coal mining or other mining, quarrying, or extracting carbonaceous oils from the earth, or for the purpose of purchasing, selling or holding mines or land without the commonwealth shall semi-annually, between the first and tenth days of June and of December, make a return to the tax commissioner, under the oath of its president or treasurer, of the whole amount of its capital stock, as fixed by the corporation, on the first day of the preceding May and November, respectively, and shall pay to the treasurer and receiver general a semi-annual tax of one-twentieth of one per cent upon such capital stock at the par value thereof. All officers of such corporation and other persons assuming to represent it within the commonwealth by having charge of its affairs or of books for the transfer of its shares shall severally be personally liable for the amount of the tax imposed upon it under the provisions of this section if the same is not paid by the corporation.

SECTION 50. Every such corporation, company or association chartered or organized under authority other than that of this commonwealth, which has a usual place of business in this commonwealth, shall semi-annually, between the first and tenth days of June and December, make a return to the tax commissioner, signed and sworn to by its treasurer, of the amount of its capital stock which has been paid in, in cash or otherwise, or called in by assessment or instalment on the preceding first day of May and November, respectively, and shall between said first and tenth days of June and December, pay to the treasurer and receiver general a tax of one-fortieth of one per cent upon the par value of its capital stock paid in, in cash or otherwise, or called in by assessment or instalment on said preceding first day of May and November; but the amount of such semi-annual tax shall not, in any one case, exceed three hundred dollars. The officers, directors, trustees and agent of every such corporation, company or association, if citizens of, or resident or commorant within, this commonwealth shall be jointly and severally liable for the payment of the tax imposed by the provisions of this section.

Returns and tax of foreign mining, etc., companies.
1865, 283, § 8.
P. S. 13, § 43.
1882, 106, §§ 1, 4, 5.
1883, 74.
99 Mass. 148.
168 Mass. 568.

SECTION 51. Every corporation mentioned in section forty-nine shall annually, on or before the tenth day of June, make a return to the tax commissioner, signed and sworn to by its treasurer and a majority of its directors, containing a full and accurate statement of its property, of all receipts and expenditures in or on account of its business and of all products thereof for the year ending on the preceding first day of March, with such further details as shall be prescribed by the tax commissioner, who shall furnish to each corporation blank forms therefor. The tax commissioner shall, from such report or otherwise, determine the net profits or gains of each such corporation, from its property and business during the year aforesaid, and shall assess a tax of four per cent upon the amount thereof.

Report of business and tax thereon.
1865, 283, §§ 9, 10.
1866, 291, § 2.
P. S. 13, §§ 44, 45.
139 Mass. 562.

TAXATION OF CORPORATIONS FORMED TO CONSTRUCT RAILROADS IN FOREIGN COUNTRIES.

SECTION 52. A corporation formed under the general laws of the commonwealth to construct railroads, or railroads and telegraphs, in foreign countries shall for the purposes of taxation be subject to the provisions of section forty-nine, except that the rate of taxation shall be one-twentieth of one per cent per annum upon the par value of the capital stock, divided into semi-annual payments as provided in said section; but no other provisions of this chapter relative to the assessment of taxes upon corporations or the shareholders therein shall apply thereto. Such corporation shall annually, between the first and tenth days of May, make a return to the tax commissioner, under the oath of its treasurer, of all its shareholders, their residences, the number of shares belonging to each on the first day of May, the amount of its capital stock and the par value and market value of the shares on said first day of May.

Return and tax of corporations to construct railroads in foreign countries.
1879, 274, § 6.
P. S. 13, § 46.
1895, 300.
139 Mass. 559.

TAXATION OF THE GUARANTY CAPITAL OF MUTUAL FIRE INSURANCE COMPANIES ORGANIZED UNDER GENERAL LAWS, AND OF SHARES IN THE PERMANENT FUND OF MUTUAL MARINE, AND MUTUAL FIRE AND MARINE, INSURANCE COMPANIES.

Guaranty capital and permanent funds of certain mutual insurance companies, how taxed.
1872, 315, §§ 11, 12.
P. S. 13, § 50.
137 Mass. 80.
139 Mass. 564.

SECTION 53. Mutual fire insurance companies with a guaranty capital, mutual marine, and mutual fire and marine, insurance companies with a permanent fund shall, if organized under the general laws, be subject to the provisions of this chapter imposing a tax upon the franchises of corporations organized for purposes of business or profit having a capital stock divided into shares, relative to the assessment and payment of a tax upon such guaranty capital or permanent fund, and shall make all such returns and payments, and be subject to like penalties, liabilities and forfeitures, and have the same rights of appeal as are required of, imposed upon and given to such corporations in this chapter.

NOTICE OF TAX. PENALTIES.

Notice of tax.
1865, 283, § 11.
1880, 227, § 2.
P. S. 13, §§ 26, 53.
1887, 283, § 1.
1888, 413, § 23.
1898, 417.
139 Mass. 562.

SECTION 54. The tax commissioner shall annually, as soon as may be after the first Monday of August, notify the treasurer of every corporation, company or association, or the secretary or general agent of every life insurance company, liable to a tax under the provisions of sections twenty-four, thirty-five, thirty-six, forty, forty-one, forty-eight, fifty-one and fifty-three, of the amount thereof, that it will be due and payable to the treasurer and receiver general within thirty days after the date of such notice, but not before the first day of November, and that within ten days after the date of such notice the corporation, company or association may apply for a correction of said tax, and be heard thereon by the board of appeal.

Penalties for neglect to make returns, and for false statements. Recovery thereof.
1862, 224, § 9.
1864, 208, § 14.
1865, 283, § 14.
1873, 141, § 9.
1878, 218, § 3.
1880, 227, § 4.
P. S. 13, §§ 7, 28, 36, 54.
1890, 197, § 2.
1892, 129.
1898, 417.

SECTION 55. A corporation or agent neglecting to make the returns required by section twenty-four shall forfeit fifty dollars for every day during which such neglect continues. A corporation, company, association or partnership which fails to make the return required by section thirty-two shall forfeit twenty-five dollars. If it neglects to make such return for ten days after notice thereof, addressed to it, has been deposited in the post office, postage prepaid, it shall further forfeit five hundred dollars and upon an information by the attorney general at the relation of the commissioner of corporations it may be restrained from the further transaction of its business in this commonwealth until it has made such return; but such penalties shall not be incurred if it is proved that the return was duly made and deposited in the post office, postage prepaid, properly directed to the tax commissioner, and that there was no neglect. If any return required by section thirty-two contains a false statement which is known, or by the exercise of reasonable care might have been known, to the agent or officers making it, to be false, such company or agent shall be liable for the amount of tax thereby lost to the commonwealth and, in addition, to a penalty of not less than five hundred nor more than five thousand dollars.

Any corporation, company, co-partnership or association liable to taxation under the provisions of sections thirty-five, thirty-six, forty, forty-one, forty-eight to fifty-one, inclusive, and fifty-three neglecting to make the returns required by this chapter, or refusing or neglecting, when required, to submit to the examinations provided for therein shall forfeit two per cent upon the par value of its capital stock. A guardian, executor, administrator, trustee or partnership neglecting to make the returns required by section eight shall forfeit one hundred dollars. Such penalties may be recovered in an action of tort to be brought by the treasurer and receiver general, in the name of the commonwealth, either in the county of Suffolk or in the county in which the corporation is located.

Interest on unpaid taxes. 1900, 398. 1901, 222.

SECTION 56. Corporations which neglect to pay taxes assessed and certified to the treasurer and receiver general by the tax commissioner shall pay interest at the rate of six per cent per annum from the time when such taxes were payable until they are paid, if such payment is made before the commencement of proceedings for the recovery thereof, and twelve per cent if made after the commencement thereof, except proceedings pending on the second day of April nineteen hundred and one.

Action at law to recover unpaid taxes. 1862, 224, § 11. 1864, 208, § 14. 1865, 283, § 14. 1873, 141, § 10. 1876, 59. 1878, 218, § 3. P. S. 13, §§ 22, 37, 54. 1898, 417. 1900, 398. 123 Mass. 497.

SECTION 57. If a savings bank, institution for savings, insurance company or agent thereof or other corporation, company or association fails to pay the taxes required by sections nineteen, twenty-two, twenty-four, twenty-six to twenty-nine, inclusive, thirty-three, thirty-five, thirty-six, thirty-seven, forty, forty-eight to fifty-one, inclusive, and fifty-three to be paid to the commonwealth, the treasurer and receiver general may recover the same in an action of contract, brought in the name of the commonwealth. 11 Allen, 283.

Collection of penalties and unpaid taxes by information. 1862, 224, § 11. 1865, 283, § 14. 1873, 141, § 10. 1878, 218, § 3. 1880, 227, § 4. P. S. 13, §§ 22, 28, 36, 54. 1898, 417. 1900, 398. 99 Mass. 151. 123 Mass. 496. 125 U. S. 530.

SECTION 58. Penalties incurred by corporations, companies or associations for failure to make the returns required by sections eight, twenty-four, thirty-two, thirty-five, thirty-six, thirty-seven, forty-eight to fifty-one, inclusive, and fifty-three may also be collected by information brought in the supreme judicial court by the attorney general at the relation of the tax commissioner, and taxes under the provisions of sections nineteen, twenty-two, thirty-six, forty, forty-eight to fifty-one, inclusive, and fifty-three may also be collected by a like information at the relation of the treasurer and receiver general. The court may issue an injunction upon such information, restraining the further prosecution of the business of such company or corporation until such penalties or taxes, with interest thereon, and costs have been paid and the returns have been made; but no telegraph company accepting the provisions of section five thousand two hundred and sixty-three of the Revised Statutes of the United States, shall be enjoined from constructing, maintaining, or operating a telegraph line over and along any of the military or post roads of the United States within this commonwealth.

Injunction for failure to make return. 1866, 291, § 1. P. S. 13, § 55.

SECTION 59. A corporation, company or association which fails to make a return as required by sections thirty-six, thirty-seven and forty-eight to fifty-three, inclusive, or the agents thereof, may

1885, 238.
1886, 270.

upon application by the tax commissioner to the supreme judicial court be restrained from the further prosecution of its business until it has made such returns.

Lessee of corporate property also to be liable for the tax.
1865, 283, § 16.
P. S. 13, § 56.
1898, 417.

SECTION 60. The lessee of the works, structures, real estate or machinery of any corporation, company or association taxed under the provisions of sections twenty-two, thirty-six, thirty-seven, forty, forty-eight to fifty-one, inclusive, and fifty-three shall also be liable for the payment of the tax and upon such payment may, in the absence of an agreement to the contrary, retain it out of the rent of the property, or recover it in an action against the lessor.

Exemption from local taxation. Apportionment.
1864, 208, §§ 8, 15.
1865, 283, § 15.
1866, 291, § 2.
P. S. 13, § 57.
1887, 228.
1888, 413, § 23.
1898, 417; 578, §§ 4, 26.
1900, 413, § 5.
1901, 413, § 4.
135 Mass. 569.
139 Mass. 559.

SECTION 61. No taxes shall be assessed in a city or town for state, county or town purposes, upon the shares in the capital stock of corporations, companies or associations taxable under the provisions of sections thirty-five, thirty-six, forty, forty-eight, fifty-one, fifty-two and fifty-three for any year for which they pay to the treasurer and receiver general a tax on their corporate franchises, or, in the case of safe deposit, loan and trust companies, for any year for which they pay a tax as provided in section thirty-five. Such proportion of the tax collected of each corporation, company or association under the provisions of sections thirty-six, forty, fifty-one and fifty-two, except street railway companies, as corresponds to the proportion of its stock owned by persons residing in this commonwealth shall be distributed, credited and paid to the several cities and towns in which, from the returns or other evidence, it appears that such persons resided on the preceding first day of May, according to the number of shares so held in such cities and towns respectively. Such proportion of the tax paid by safe deposit, loan and trust companies under the provisions of section thirty-five as corresponds to the amount of property held by it in trust or on deposit, as described in said section, for beneficiaries or depositors resident in this commonwealth shall be distributed, credited and paid to the several cities and towns in which, from the returns or other evidence, it appears that such beneficiaries and depositors resided on the first day of the preceding May, according to the aggregate amount so held for beneficiaries and depositors residing in such cities and towns respectively. If stock is held by co-partners, guardians, executors, administrators or trustees, the proportion of tax corresponding to the amount of stock so held shall be credited and paid to the cities and towns where the stock would have been taxed under the provisions of clauses four, five, six and seven of section twenty-three and section twenty-seven of chapter twelve. If a city or town owns stock in any corporation taxed upon its corporate franchise under the provisions of this chapter a return to said city or town shall be made as if it were owned by persons resident therein. The tax collected of each street railway company under the provisions of sections forty and forty-one shall be apportioned among the several cities and towns in proportion to the length of tracks operated by such company in said cities and towns respectively. The share of the tax paid by a street railway company in respect of its tracks upon locations granted by the board of metropolitan park commissioners or by the Wachusett mountain state reservation commission shall be

apportioned to the commonwealth and shall be credited by the treasurer and receiver general to the sinking fund of the loan to which the expenditure for the road, boulevard, park or reservation in which the tracks are located was charged.

SECTION 62. The tax commissioner shall, subject to appeal to the board of appeal, ascertain and determine the amount due to each city and town under the provisions of the preceding section, notify the treasurer of each city and town thereof and certify the amount as finally determined, to the treasurer and receiver general, who shall thereupon pay over the same.

Tax commissioner to determine amounts due to cities and towns. 1865, 283, § 15. P. S. 13, § 58. 1898, 578, §§ 4, 5.

SECTION 63. Every insurance company liable to taxation under the provisions of section twenty-four and every corporation liable to taxation under the provisions of sections twenty-two, thirty-five to forty, inclusive, forty-two and forty-eight to fifty-three, inclusive, except corporations liable to taxation under the provisions of section fifty-two shall, when required, submit its books to the inspection of the tax commissioner, and its treasurer and directors to examination on oath relative to all matters affecting the determinations which are to be made by said commissioner. 98 Mass. 22.

Corporations liable to taxation to submit books to inspection and officers to examination. 1864, 208, § 16. 1865, 283, § 17. 1880, 227, § 2. P. S. 13, §§ 26, 59. 1886, 270. 1887, 283, § 1. 1888, 413, § 23. 1898, 417.

SECTION 64. The tax on corporate franchises herein imposed upon any corporation shall not affect nor prevent the imposition and collection of any other tax now authorized, or that may hereafter be authorized, upon any especial privilege, franchise or business enjoyed or exercised by such corporation.

Corporate franchise tax not to affect imposition of other taxes. 1865, 283, § 18. P. S. 13, § 60. 1898, 417.

APPEALS AND BOARD OF APPEAL.

SECTION 65. The treasurer and receiver general, the auditor of accounts and a member of the council to be designated by the governor, shall constitute a board of appeal. Any party aggrieved by a decision of the tax commissioner made under the provisions of section twenty-two or of sections twenty-four to sixty-two, inclusive, and any party aggrieved by any other decision of the tax commissioner upon any matter arising under the provisions of this chapter from which an appeal is given, may apply to the board of appeal within ten days after notice of his decision. Said board shall hear and decide the subject matter of such appeal and give notice of the decision to the tax commissioner and the appellant; and its decision shall be final and conclusive, although payments have been made as required by the decision appealed from. Any over-payment of tax determined by decision of said board of appeal shall be reimbursed from the treasury of the commonwealth.

Board of appeal; appeals; reimbursement of over-payments. 1865, 283, § 13. 1877, 164. 1880, 227, § 2. P. S. 13, §§ 61, 62. 1898, 417. 144 Mass. 598.

WARRANTS FOR COLLECTION AND APPLICATIONS FOR RELIEF.

SECTION 66. When a tax or excise of any kind remains due to or is claimed by the commonwealth from a corporation, company or association, whether existing by authority of this commonwealth or otherwise, except a municipal corporation, for ten days after notice given through the mail by the treasurer and receiver general to its treasurer or other financial agent that such tax or excise is

Collection of tax by warrant. 1867, 52, §§ 1, 4. 1881, 155. P. S. 13, §§ 63, 66. 1898, 417. 1900, 398. 1901, 222. 123 Mass. 407.

due and unpaid, the treasurer and receiver general may, in addition to other modes of relief, issue his warrant, directed to the sheriff or his deputies of the county in which such corporation, company or association has its place of business, commanding the collection of such tax or excise. Such warrant may be substantially in the form of and served in the same manner as those issued by the assessors of towns. Such warrant shall not run against the body of any person, nor shall any property of such delinquent corporation, company or association be exempt from seizure and sale thereon. The officer having such warrant shall collect such tax or excise, and interest upon the same at the rate of twelve per cent per annum from the time when such tax or excise became due, and may collect and receive for his fees the sum which an officer would be entitled by law to receive upon an execution for a like amount. He shall also collect one dollar for the warrant, which shall be paid over to the treasurer and receiver general.

Validity of tax may be determined by supreme judicial court on petition.
1867, 52, §§ 2, 4.
1881, 155.
P. S. 13, §§ 64, 66.
1898, 417.
99 Mass. 146.
123 Mass. 497.
137 Mass. 80.
144 Mass. 66, 598.
149 Mass. 1.
157 Mass. 68.

SECTION 67. Any corporation or association aggrieved by the exaction of said tax or excise or of any portion thereof may, within six months after the payment of the same, whether such payment be after or before the issue of the warrant mentioned in the preceding section, apply by petition to the supreme judicial court, setting forth the amount of the tax or excise and costs thereon so paid, the general legal grounds and the specific grounds in fact, if any, upon which it is claimed such tax or excise should not have been exacted. Said petition shall be the exclusive remedy and shall be entered and heard in the county of Suffolk. A copy of the same shall be served upon the treasurer and receiver general and upon the attorney general. The proceedings upon such petition shall conform, as nearly as may be, to proceedings in equity, and an abatement shall be made of only such portion of the tax or excise as was assessed without authority of law.

Reimbursement of tax if illegally exacted.
1867, 52, § 3.
1881, 155.
P. S. 13, § 65.
1898, 417.

SECTION 68. If the court, upon a hearing or trial, adjudges that said tax or excise, and the costs thereon, have been illegally exacted, a copy of the judgment or decree shall be transmitted by the clerk of the court to the auditor, who shall thereupon audit and certify the amount adjudged to have been illegally exacted, with interest, and costs to be taxed by the clerk of the court in the same manner as other claims against the commonwealth, and the treasurer and receiver general shall pay the same, without any further act or resolve making appropriation therefor. So much thereof as has been paid from the treasury of the commonwealth to any city or town may be deducted from and set off against any sum afterwards payable to such city or town.

Abatement in part of taxes of mining companies taking legal action for dissolution.
1867, 299.
P. S. 13, § 67.

SECTION 69. When it appears to the satisfaction of the tax commissioner, by the sworn statement of the treasurer or other officer of any corporation assessed under the provisions of sections forty-nine and fifty, that it is doing no business and has taken legal action, in good faith, to procure its dissolution or the reduction of its capital stock, that there is no money in its treasury and that it has not sufficient assets to satisfy the claim of the commonwealth for such taxes with interest and the costs of collection, said com-

missioner may assent to a payment of not less than ten per cent of the amount thereof, in full satisfaction thereof; and upon his certifying to the treasurer and receiver general the amount to be paid thereunder, the officers and stockholders upon payment thereof shall be discharged from liability to the commonwealth therefor.

CHAPTER 15.

OF THE TAXATION OF COLLATERAL LEGACIES AND SUCCESSIONS.

Taxation of collateral legacies and successions. Exemptions. 1891, 425, § 1. 1895, 307. 1896, 108. 1901, 297. 162 Mass. 113. 164 Mass. 79. 171 Mass. 410, 595. 173 Mass. 205, 375. 174 Mass. 144, 266. 175 Mass. 59. 176 Mass. 190. 178 U. S. 41, 115. [1 Op. A. G. 75, 76, 288.]

SECTION 1. All property within the jurisdiction of the commonwealth, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of the commonwealth or not, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, sale or gift, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, absolutely or in trust, except to or for the use of the father, mother, husband, wife, lineal descendant, brother, sister, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter, of a decedent, or to or for the use of charitable, educational or religious societies or institutions, the property of which is by law exempt from taxation, or to a city or town for public purposes, shall be subject to a tax of five per cent of its value, for the use of the commonwealth; and administrators, executors and trustees, and any such grantees under a conveyance made during the grantor's life, shall be liable for such taxes, with interest, until the same have been paid; but no bequest, devise or distributive share of an estate, unless its value exceeds five hundred dollars, shall be subject to the provisions of this chapter.

—of remainder to collateral heir, etc. 1891, 425, § 2. [1 Op. A. G. 76.]

SECTION 2. If a person bequeaths or devises property to or for the use of a father, mother, husband, wife, lineal descendant, brother, sister, an adopted child, the lineal descendant of an adopted child, the wife or widow of a son, or the husband of a daughter, for life or for a term of years, with the remainder to a collateral heir or to a stranger to the blood, the value of such particular estate shall, within three months after the appointment of the executor, administrator or trustee, be appraised in the manner provided in section sixteen and deducted from the appraised value of such property, and the remainder shall be subject to a tax of five per cent of its value.

—of bequests to executors, etc., in excess of reasonable compensation. 1891, 425, § 3.

SECTION 3. If a testator gives, bequeaths or devises to his executors or trustees any property otherwise liable to said tax, in lieu of their compensation, the value thereof in excess of reasonable compensation, as determined by the probate court upon the application of any interested party or of the treasurer and receiver general, shall nevertheless be subject to the provisions of this chapter.

Time of payment; suspension, interest, lien. 1891, 425, § 4. 1895, 430, § 1.

SECTION 4. Taxes imposed by the provisions of this chapter shall be payable to the treasurer and receiver general by the executors, administrators or trustees, at the expiration of two years after

the date of their giving bond; but if legacies or distributive shares are paid within the two years, the taxes thereon shall be payable at the same time. If the probate court acting under the provisions of section thirteen of chapter one hundred and forty-one has ordered the executor or administrator to retain funds to satisfy a claim of a creditor, the payment of the tax may be suspended by the court to await the disposition of such claim. If the taxes are not paid when due, interest shall be charged and collected from the time the same became payable; and said taxes and interest shall be and remain a lien on the property subject to the taxes until the same are paid.

Executor to deduct tax from legacy or collect from legatee. 1891, 425, § 5. 1901, 277. [1 Op. A. G. 30.]

SECTION 5. An executor, administrator or trustee holding property subject to said tax shall deduct the tax therefrom or collect it from the legatee or person entitled to said property, and he shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. An executor or administrator shall collect taxes due upon land which is subject to tax under the provisions hereof from the heirs or devisees entitled thereto, and he may be authorized to sell said land according to the provisions of section eight if they refuse or neglect to pay said tax.

Deductions of tax from collateral legacy charged upon realty. 1891, 425, § 6.

SECTION 6. If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the tax shall remain a charge upon said real estate until it is paid. Payment thereof may be enforced by the executor, administrator or trustee in the same manner as the payment of the legacy itself could be enforced.

— from determinable pecuniary legacy. Apportionment. 1891, 425, § 7.

SECTION 7. If a pecuniary legacy is given to any person for a limited period, the executor, administrator or trustee shall retain the tax on the whole amount; but if it is not in money, he shall apply to the probate court having jurisdiction of his accounts to make an apportionment, if the case requires it, of the sum to be paid into his hands by such legatee on account of said tax, and for such further orders as the case may require.

Sale by executor, etc., of realty of decedent for payment of tax. 1891, 425, § 8.

SECTION 8. The probate court may authorize executors, administrators and trustees to sell the real estate of a decedent for the payment of said tax in the same manner as it may authorize them to sell real estate for the payment of debts.

Inventory. Penalty. 1891, 425, § 9. 1895, 430, § 2. [1 Op. A. G. 30, 40, 52.]

SECTION 9. An inventory of every estate, any part of which may be subject to a tax under the provisions of this chapter, shall be filed by the executor, administrator or trustee within three months after his appointment. If he neglects or refuses to file such inventory, he shall be liable to a penalty of not more than one thousand dollars, which shall be recovered by the treasurer and receiver general; and the register of probate shall notify the treasurer and receiver general of any such neglect or refusal within thirty days after the expiration of the said three months.

SECTION 10. A copy of the inventory and appraisal of every estate, any part of which is subject to a tax under the provisions of this chapter or, if the estate can be conveniently separated, a copy of the inventory and appraisal of such part, shall within thirty days after it has been filed be sent by the register of probate, by mail, to the treasurer and receiver general without charge therefor. A refusal or neglect by the register of probate so to send a copy of such inventory and appraisal shall be a breach of his official bond.

Copy of inventory to be filed with treasurer and receiver general. 1891, 425, § 10.

SECTION 11. If real estate of a decedent so passes to another person as to become subject to said tax, his executor, administrator or trustee shall inform the treasurer and receiver general thereof within six months after his appointment, or if the fact is not known to him within that time, then within one month after the fact becomes known to him.

Treasurer and receiver general to be notified of estates liable to tax. 1891, 425, § 11.

SECTION 12. If a foreign executor, administrator or trustee assigns or transfers any stock or obligation in any national bank located in this commonwealth or in any corporation organized under the laws of this commonwealth, owned by a deceased non-resident at the date of his death and liable to a tax under the provisions of this chapter, the tax shall be paid to the treasurer and receiver general at the time of such assignment or transfer, and if it is not paid when due such executor, administrator or trustee shall be personally liable therefor until it is paid. A bank located in this commonwealth or a corporation organized under the laws of this commonwealth which shall record a transfer of any share of its stock or of its obligations made by a foreign executor, administrator or trustee, or issue a new certificate for a share of its stock or of the transfer of an obligation at the instance of a foreign executor, administrator or trustee, before all taxes imposed thereon by the provisions of this chapter have been paid, shall be liable for such tax in an action of contract brought by the treasurer and receiver general.

Non-resident assets liable to tax, when and by whom paid. 1900, 371, § 1. 173 Mass. 205.

SECTION 13. Securities or assets belonging to the estate of a deceased non-resident shall not be delivered or transferred to a foreign executor, administrator or legal representative of said decedent, unless such executor, administrator or legal representative has been licensed to receive such securities or assets under the provisions of section three of chapter one hundred and forty-eight, without serving notice upon the treasurer and receiver general of the time and place of such intended delivery or transfer seven days at least before the time of such delivery or transfer. The treasurer and receiver general, either personally or by representative, may examine such securities or assets at the time of such delivery or transfer. Failure to serve such notice or to allow such examination shall render the person or corporation making the delivery or transfer liable in an action of contract brought by the treasurer and receiver general to the payment of the tax due upon said securities or assets.

Notice to treasurer and receiver general before transfer and delivery. 1900, 371, § 2.

SECTION 14. The treasurer and receiver general shall be made a party to all petitions by foreign executors, administrators or trustees brought under the provisions of section three of chapter one

Treasurer and receiver general to be party to petition to transfer. 1900, 371, § 3.

hundred and forty-eight, and no decree shall be made upon any such petition unless it appears that notice of such petition has been served on the treasurer and receiver general fourteen days at least before the return day of such petition.

Reimbursement of tax wrongfully paid. 1891, 425, § 12. 1892, 379.

SECTION 15. If a person who has paid such tax afterward refunds a portion of the property on which it was paid or if it is judicially determined that the whole or any part of such tax ought not to have been paid, said tax, or the due proportion thereof, shall be repaid to him by the executor, administrator or trustee.

Valuation. Appraisal. 1891, 425, § 13.

SECTION 16. Said tax shall be assessed upon the actual value of said property as found by the probate court. Upon the application of the treasurer and receiver general or of any party interested in the succession, the probate court shall appoint three disinterested appraisers who, first being sworn, shall appraise such property at its actual market value and shall make return thereof to said court. Such return, when accepted by said court, shall be final. The fees of said appraisers, as determined by the judge of said court, shall be paid by the treasurer and receiver general. The value of an annuity or life estate shall be determined by the "ACTUARIES' COMBINED EXPERIENCE TABLES," at four per cent compound interest.

Jurisdiction of probate court. Commonwealth, how represented. 1891, 425, § 14. 164 Mass. 79. 171 Mass. 595. [1 Op. A. G. 85.]

SECTION 17. The probate court having jurisdiction of the settlement of the estate of the decedent shall, subject to appeal as in other cases, hear and determine all questions relative to said tax affecting any devise, legacy or inheritance, and the treasurer and receiver general shall represent the commonwealth in any such proceedings.

Application by treasurer and receiver general for administration. 1891, 425, § 15.

SECTION 18. If, upon the decease of a person leaving an estate liable to a tax under the provisions of this chapter, a will disposing of such estate is not offered for probate, or an application for administration made within four months after such decease, the proper probate court, upon application by the treasurer and receiver general, shall appoint an administrator.

Payment of tax requisite to allowance of accounts. 1891, 425, § 16.

SECTION 19. No final account of an executor, administrator or trustee shall be allowed by the probate court unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of this chapter upon any property or interest therein belonging to the estate to be settled by said account have been paid; and the receipt of the treasurer and receiver general for such tax shall be the proper voucher for such payment.

Recovery of taxes by treasurer and receiver general. Extension of time of payment. 1891, 425, § 18. [1 Op. A. G. 268.]

SECTION 20. The treasurer and receiver general shall commence an action for the recovery of any of said taxes within six months after the same become payable; and also whenever the judge of a probate court certifies to him that the final account of an executor, administrator or trustee has been filed in such court and that the settlement of the estate is delayed because of the non-payment of said tax. The probate court shall so certify upon the application of any heir, legatee or other person interested therein, and may extend the time of payment of said tax whenever the circumstances of the case require.

TITLE IV.

CHAPTER 16.

OF THE MILITIA.

[*The general acts regulating the militia subsequent to the General Statutes and prior to the Public Statutes are Sts.* 1864, 238; 1866, 219; 1873, 313; 1874, 320; 1878, 265.]

SECTIONS 1–11. — Enrolled Militia.
SECTIONS 12–21. — Staff of the Commander-in-Chief and its Duties.
SECTIONS 22–170. — Volunteer Militia.
SECTIONS 171–185. — General Provisions.

ENROLLED MILITIA.

Persons exempt from Military Duty.

"Soldier" and "company" defined. P. S. 14, § 164. 1886, 63, § 2. 1887, 411, § 162.

SECTION 1. In this chapter the word "soldier" shall include musicians and all persons in the volunteer or enrolled militia, except commissioned officers; and the word "company" shall include battery, troop, signal corps and ambulance corps. 1893, 367, § 162.

Persons to be enrolled in the militia. U. S. Rev. Sts., § 1625. P. S. 14, § 1. 1887, 411, § 1. 1893, 367, § 1. 14 Gray, 614. 1 Pick. 194. 3 Pick. 262, 506. 15 Pick. 7. 21 Pick. 330. 22 Pick. 571. 23 Pick. 54.

SECTION 2. Every able-bodied male citizen, resident within this commonwealth, of the age of eighteen years and under the age of forty-five years, except persons exempted by sections three, four and six, and idiots, lunatics, common drunkards, vagabonds, paupers and persons convicted of any infamous crime, shall be enrolled in the militia. Persons convicted of any such crime after enrolment shall forthwith be disenrolled. In all cases of doubt respecting the age of a person enrolled, the burden of proof shall be upon him.

Exemptions. U. S. Rev. Sts., § 1629. P. S. 14, § 2. 1887, 411, § 2. 1893, 367, § 2. 4 Mass. 239. 13 Mass. 316. 14 Mass. 394. 17 Mass. 49. 1 Pick. 261. 2 Pick. 597. 23 Pick. 208.

SECTION 3. In addition to the persons exempted by the laws of the United States from enrolment in the militia, the following persons shall also be absolutely exempt: justices and clerks of courts of record; judges and registers of probate and insolvency; registers of deeds, and sheriffs; officers who have held or may hold commissions in the regular or volunteer army or navy of the United States; officers who have held, for a period of five years, commissions in the militia of this or any other state of the United States, or who have been superseded and discharged, or who have held commissions in any organization of the Massachusetts volunteer militia at the time of its disbandment; enlisted men who have served honorably in the volunteer militia continuously for a period of nine years; ministers of the gospel; practising physicians; superintendents, officers and assistants employed in or about either of the state hospitals, state almshouses, state prisons, jails or houses of

correction; keepers of lighthouses; conductors and engine drivers of railroad trains; seamen actually employed on board of any vessel, or who have been so employed within three months next preceding the time of enrolment.

Quakers, Shakers, etc., exempted, when.
P. S. 14, § 3.
1887, 411, § 3.
1893, 367, §§ 3, 4.
12 Mass. 441.
17 Mass. 351.

SECTION 4. Every person of the religious denominations of Quakers or Shakers, if conscientiously scrupulous of bearing arms, who, before the first Tuesday in May, annually, delivers to the assessors of the place where he resides, a certificate signed by two of the elders or overseers of the society with which he meets for public religious worship, shall be exempt from enrolment. The certificate shall be in the following form: —

We, the subscribers of the society of the people called in the of , in the county of , do hereby certify that is a member of our society, and that he frequently and usually attends religious worship with said society, and we believe he is conscientiously scrupulous of bearing arms.

A. B., *Elders or Overseers.*
C. D. (as the case may be).

E. F., *Clerk.*

Penalties for giving false certificate.
P. S. 14, § 4.
1887, 411, § 4.
1893, 367, § 4.

SECTION 5. Whoever gives or files a false certificate under the preceding section shall be punished by a fine of two hundred dollars and by imprisonment for not more than six months.

Members of fire department exempted.
P. S. 14, § 5.
1887, 411, § 5.
1893, 367, § 5.
14 Mass. 374.
3 Pick. 226.

SECTION 6. Enginemen or members of the fire department shall be exempt from military duty upon filing with the assessors of the place where they reside, a certificate, signed by the mayor and aldermen or fire commissioners or the selectmen; but an enlistment in the volunteer militia shall not be vacated by an appointment as engineman or member of the fire department.

Enrolled militia subject to active duty, when.
P. S. 14, § 6.
1887, 411, § 6.
1893, 367, § 6.

SECTION 7. The enrolled militia shall be subject to no active duty except in case of war, invasion, the prevention of invasion, the suppression of riots and to aid civil officers in the execution of the laws.

Enrolment of Persons Subject to Military Duty.

Assessors to make list of persons liable to enrolment.
P. S. 14, § 7.
1887, 411, § 7.
1893, 367, § 7.

SECTION 8. Assessors shall annually, in May or June, make a list of persons living within their respective limits liable to enrolment, and place a certified copy thereof in the hands of the clerks of their respective cities and towns, who shall place it on file with the records of such city or town, and annually, in May, June or July, transmit returns of the militia thus enrolled to the adjutant general.

Tavern keepers, etc., to give names, etc., to assessors, under penalty.
P. S. 14, § 8.
1887, 411, § 8.
1893, 367, § 8.
10 Mass. 36.

SECTION 9. Keepers of taverns or boarding houses, and masters and mistresses of dwelling houses, shall, upon application of the assessors, or of persons acting under them, give information of the persons residing in their houses, liable to enrolment or to military duty, and every such person shall, upon like application, give his name and age; and if such keeper, master, mistress or person refuses to give such information, or gives false information, such keeper, master or mistress shall forfeit twenty dollars, and such person shall forfeit twelve dollars, to be recovered on complaint of either of the assessors.

Calling Out and Organizing for Active Duty.

SECTION 10. When it is necessary to call out any portion of the enrolled militia for active duty, the commander-in-chief shall direct his order to the mayor and aldermen or to the selectmen, who shall forthwith, by written order or oral notice to each individual, or by proclamation, appoint a time and place for the assembling of the enrolled militia in their city or town, and shall then and there draft as many thereof, or accept as many volunteers, as are required by the order of the commander-in-chief, and shall forthwith forward to him a list of the persons so drafted or accepted as volunteers.

Calling out enrolled militia for active duty. P. S. 14, § 9. 1887, 411, § 9. 1893, 367, § 9.

SECTION 11. Every member of the enrolled militia so ordered out, or who volunteers or is detached or drafted, who does not appear at the time and place designated by the mayor and aldermen or selectmen, or who has not some proper substitute at such time and place, or does not pay to such mayor and aldermen or selectmen, for the use of the commonwealth, seventy-five dollars, within twenty-four hours from such time, or who does not produce a sworn certificate, from a physician in good standing, of physical disability so to appear, shall be taken to be a deserter, and dealt with accordingly. The portion of the enrolled militia so accepted shall be immediately mustered into the service of the commonwealth for three years, or for such less period as the commander-in-chief may direct, and shall be organized into companies, which may be arranged in battalions or regiments, or assigned to organizations of the volunteer militia already existing. Such new organizations shall be officered, equipped, trained and governed according to the laws for the government of the volunteer militia. Elections shall forthwith be ordered in such new organizations, by the commander-in-chief, who may detail officers to train and command them until the officers-elect shall have qualified, and passed the examination required by section fifty-five.

Penalty for not appearing when drafted. P. S. 14, § 10. 1887, 411, § 10. 1893, 367, § 10.

Muster-in, organization, etc., of accepted militia.

Election of officers.

STAFF OF THE COMMANDER-IN-CHIEF AND ITS DUTIES.

SECTION 12. The staff of the commander-in-chief shall consist of an adjutant general, who shall, ex officio, be chief of staff, a surgeon general and an inspector general, a commissary general and a judge advocate general, each with the rank of brigadier general; a quartermaster general and an inspector general of rifle practice, each with the rank of colonel; an assistant adjutant general and six assistant inspectors general, each with the rank of lieutenant colonel; an assistant quartermaster general and four aides-de-camp, each with the rank of major. In time of peace the adjutant general, unless otherwise directed by the commander-in-chief, shall be quartermaster general and commissary general. In time of war the commander-in-chief may appoint such additional staff officers as the service may require, with such rank, not higher than that of colonel, as he may designate. All staff officers shall be commissioned and hold office until their successors are appointed and qualified, but they may be removed at any time by the commander-in-chief.

No person shall be eligible to appointment on the staff of the commander-in-chief unless he has served at least three years in the

Staff of commander-in-chief. Amend. const., art. 4. 1879, 96. P. S. 14, § 11. 1887, 411, § 11. 1892, 238. 1893, 367, § 11. 1895, 465, § 1. 1897, 448, §§ 1, 2. 1898, 359, §§ 1–4, 6. 1900, 352, 353.

volunteer militia of the commonwealth, or unless he has been honorably discharged or retired from the military or naval service of the United States.

Adjutant general, duties. 1879, 117, § 2. P. S. 14, § 12. 1887, 411, § 12. 1893, 367, § 12.

SECTION 13. The adjutant general shall distribute all orders from the commander-in-chief; obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by the laws of the commonwealth and of the United States; furnish blank forms for the different returns and rolls as required; receive from the several officers of the volunteer militia returns of the militia under their command, which they are hereby required to make, reporting the actual condition of their uniforms, arms, accoutrements and ammunition, their delinquencies and every other thing relating to the advancement of good order and discipline; and from said returns he shall make proper abstracts and lay the same annually before the commander-in-chief; and he shall annually, on or before the first Monday in January, make a return in duplicate of the militia of the commonwealth, with the condition of their uniforms, arms, accoutrements and ammunition, according to such directions as he may receive from the secretary of war of the United States, one copy of which he shall deliver to the commander-in-chief and the other of which he shall transmit to the president of the United States. He shall also, subject to the orders of the commander-in-chief, attend to the prosecution of soldiers' claims.

— annual report.

Salary of adjutant general, clerks, etc. 1879, 117, § 3; 197. P. S. 14, § 13. 1886, 237. 1887, 411, § 13. 1893, 193, 231; 367, § 13. 1895, 465, § 2.

SECTION 14. The adjutant general shall receive a salary of three thousand six hundred dollars a year, and may employ five clerks, — one at a salary of twenty-two hundred dollars a year, a second clerk at a salary of sixteen hundred dollars a year, an additional clerk at a salary of two thousand dollars a year, and two at a salary of twelve hundred dollars each a year, — and a messenger at a salary of eight hundred dollars a year. He may employ such additional clerks and other assistants as may be necessary in his department, and in the quartermaster's and ordnance bureau, at an expense in all not exceeding six thousand three hundred dollars a year.

Quartermaster general, bond. P. S. 14, § 14. 1887, 411, § 14. 1893, 367, § 14. [1 Op. A. G. 166.]

SECTION 15. The quartermaster general shall give bond to the commonwealth in the penal sum of twenty thousand dollars, with two sureties at least, to be approved by the governor and council, conditioned faithfully to perform the duties of his office, to use all necessary diligence and care in the safe keeping of military stores and property of the commonwealth committed to his custody, and to account for and deliver over to his successor or to any other person authorized to receive the same, such stores and property. The commander-in-chief may require the duties imposed upon the quartermaster general to be performed by any member of his staff, who shall in that case give bond to the commonwealth in like manner as is required of the quartermaster general. The quartermaster general, under the orders of the commander-in-chief, shall have the care and control of the state camp ground and all other land held for military purposes, of all state arsenals and magazines, of the soldiers' burial lot and monument at Dedham, and all military property of the commonwealth, excepting such as is by law expressly intrusted to the keeping of other officers. He shall purchase

— to have care of camp ground and arsenals.

and issue all arms, ammunition, clothing, camp equipage and military supplies and stores of every description, except surgical instruments and medical supplies; he shall procure and provide means of transport for the militia and for all its implements, munitions of war and military supplies, such transportation to be in kind whenever practicable. He may receive into the storehouse at the state camp ground, from the several militia organizations, such articles of personal property used for military camping purposes as can be accommodated therein; these articles shall be received and delivered at the expense of the owners and held at their risk. He shall, at the public expense, also provide suitable places for the safe keeping of all munitions of war, intrenching tools and all other implements of war. Such tools and implements shall be designated as the property of the commonwealth by suitable permanent brands or marks on each of them. He may allow proper accounts annually for the repairs of uniforms and equipments. He shall adjust all accounts relating to loans of state military property to cities and towns, institutions and schools, and shall require annual returns of such property and of its condition, at such times and in such manner as he may direct, and may at any time, under the direction of the commander-in-chief, recover the whole or any part of such property when deemed for the best interests of the commonwealth.

Quartermaster general to purchase arms, ammunition, procure transportation, etc.

— to allow for the repair of uniforms and equipments. 1886, 105.

SECTION 16. Whoever wrongfully purchases, retains or has in his possession any tool or implement marked or branded as provided in the preceding section shall be punished by a fine not exceeding ten times the value thereof.

Penalty for buying, etc., branded tools. P. S. 14, § 15. 1887, 411, § 15. 1893, 367, § 15.

SECTION 17. The adjutant general, or such other officers as the commander-in-chief shall designate, shall inspect once in every year, and oftener if the commander-in-chief shall deem necessary, all headquarters, armories and state property in the hands of the militia, and report the condition of the same, and what is a proper allowance for rent. The superintendent of the state arsenal may, under orders, inspect state property in armories and ascertain what supplies are needed. The inspector general, or his assistants under his orders, may inspect any organization at any time when the troops thereof are under arms, or in attendance at their armories; but such inspections shall not constitute tours of duty for which pay will be allowed.

Inspections. P. S. 14, § 16. 1887, 411, § 16. 1893, 367, § 16.

SECTION 18. The surgeon general shall receive a salary of twelve hundred dollars a year; and subject to the orders of the commander-in-chief, shall have general supervision and control of all matters pertaining to the medical department of the militia, and shall prescribe the physical and mental disabilities exempting from military duty; he shall purchase and issue all medical and hospital supplies, and perform such other official duties as the commander-in-chief shall direct.

Surgeon general, salary, duties, etc. 1880, 40. P. S. 14, § 17. 1887, 411, § 17. 1893, 367, § 17.

SECTION 19. The judge advocate general shall review and report in writing upon all proceedings of courts-martial requiring the action of the commander-in-chief; shall bring all necessary actions, and

Judge advocate general. P. S. 14, § 18. 1887, 411, § 18. 1893, 367, § 18.

shall be the legal adviser of the military department of the commonwealth in matters referred to him by the commander-in-chief.

Annual reports.
P. S. 14, § 19.
1887, 411, § 19.
1893, 367, § 19.

SECTION 20. The inspector general, surgeon general, judge advocate general and all other staff officers of the commander-in-chief who are or may be required to make annual reports, shall, on or before the fifteenth day of December, forward the same to the adjutant general, who shall publish them with his annual report to the commander-in-chief.

Officers not to be pecuniarily interested in purchases or sales for their departments.
P. S. 14, § 20.
1887, 411, § 20.
1893, 367, § 20.

SECTION 21. The adjutant general, inspector general, quartermaster general, commissary general, or surgeon general, or any assistant of either of them, whether appointed or detailed to act as such, or any subordinate officers of their departments, shall not be interested, directly or indirectly, in the purchase or sale of any article intended for, making a part of, or appertaining to, their respective departments, except for and on account of the commonwealth; nor shall they or any of them take or apply to his or their own use any gain or emolument for negotiating or transacting any business in their respective departments, other than is allowed by law.

VOLUNTEER MILITIA.

Organization and Disbandment.

Active militia, designation of.
P. S. 14, § 21.
1887, 411, § 21.
1893, 367, § 21.

SECTION 22. The active militia shall be composed of volunteers, and shall be designated the Massachusetts Volunteer Militia. It shall be ordered into service to resist invasion, to quell insurrection, to aid civil officers in the suppression of riots, in the execution of the laws or in time of public danger, before the enrolled militia is called out.

Strength of volunteer militia in peace.
P. S. 14, § 22.
1884, 230, § 1.
1885, 236.
1886, 63, § 4.
1887, 411, § 22.
1888, 366, § 1.
1892, 366, § 1.
1893, 367, § 22.
1894, 236, §§ 1, 2.
1898, 407, §§ 1-3, 5.

SECTION 23. In time of peace, it shall consist of not more than seventy-two companies of infantry; three troops of cavalry; three batteries of light artillery; a signal corps to each brigade; an ambulance corps; two corps of cadets; and one naval brigade, to consist of two battalions of not more than four companies each.

The commander-in-chief may authorize the formation of not more than four additional companies of the naval brigade either as separate companies or in either or both of the battalions thereof or as a separate battalion and may order the election of such additional officers as may be thereby rendered necessary. He may at any time disband any of said companies the services of which are not required.

Brigades, regiments and battalions.
Const., pt. 2, c. 2, § 1, art. 10.
P. S. 14, § 23.
1882, 97.
1884, 230, § 2.
1887, 411, § 23.
1893, 367, § 23.
1897, 391.

SECTION 24. The commander-in-chief shall arrange the infantry, artillery and cavalry into regiments, battalions, and, when necessary, into unattached companies, and into not more than two brigades. There shall not be more than six regiments of infantry, one regiment or more of which, at the discretion of the governor, may be changed to heavy artillery and uniformed and instructed as such.

11 Mass. 386. 16 Mass. 523. 4 Pick. 25.

Organization of new companies.

SECTION 25. Petitions for organizing volunteer companies, accompanied by the approval of the mayor and aldermen of cities or

the selectmen of towns in which a majority of the petitioners reside, may be granted by the commander-in-chief, due regard being had to a proper distribution of the force throughout the commonwealth; but no new company shall be organized except as provided in section eleven, if thereby the whole number of companies shall exceed the number established in this chapter.

P. S. 14, § 24. 1887, 411, § 24. 1893, 367, § 24. 11 Allen, 88.

SECTION 26. To each brigade there shall be one brigadier general, who shall hold office for the term of seven years and shall be ineligible for reëlection. His staff shall consist of one assistant adjutant general, one medical director, each with the rank of lieutenant colonel; one assistant inspector general, who shall be paymaster and mustering officer for unattached companies of such brigade, and one assistant inspector general of rifle practice, each with the rank of major; one judge advocate, who shall be a justice of the peace and a member of the bar in the commonwealth; one brigade quartermaster, one engineer, one provost marshal, and two aides-de-camp, each with the rank of captain; and the following non-commissioned staff officers: one brigade sergeant major, one brigade quartermaster sergeant, one brigade hospital steward, one brigade provost sergeant, one brigade chief bugler, one brigade color sergeant, two brigade sergeant clerks. To each signal corps there shall be one first lieutenant, who shall receive the same pay and emoluments as a first lieutenant of cavalry; one first sergeant, one quartermaster sergeant, four sergeants, one chief cook, to rank as corporal, and twenty privates.

Brigadier general and staff. P. S. 14, §§ 25, 35. 1884, 230, §§ 3, 6. 1886, 63, § 5. 1887, 411, §§ 25, 34. 1893, 367, §§ 25, 34. 1894, 236. 1897, 438, § 1. 1900, 188, § 3. [1 Op. A. G. 449.]

SECTION 27. To each regiment there shall be one colonel, one lieutenant colonel, three majors, and a staff, consisting of one surgeon with the rank of major, one regimental adjutant, one quartermaster, one paymaster, who shall be the mustering officer, and one assistant surgeon, each with the rank of captain; one assistant surgeon, one inspector of rifle practice, one commissary of subsistence, and three battalion adjutants, each with the rank of first lieutenant; and one chaplain. There shall also be a non-commissioned staff, as follows: one regimental sergeant major, one quartermaster sergeant, one commissary sergeant, one paymaster sergeant, one hospital steward, one drum major, one chief bugler, and three battalion sergeant majors, who shall hold the same relative rank attached to similar positions in the United States army. There shall also be allowed to each regiment two color sergeants, one orderly, to rank as private, and sixteen drummers, to be enlisted and mustered as drummers; and to each regiment of heavy artillery the following additional staff officers: one signal officer, one range officer and one aide-de-camp, each with the rank of first lieutenant. To each separate battalion of cavalry there shall be one major, and a staff consisting of one surgeon, with the rank of major, one adjutant, one quartermaster, one paymaster, who shall be the mustering officer, one inspector of rifle practice, and one veterinary surgeon, each with the rank of first lieutenant, and one chaplain; and the following non-commissioned staff: one sergeant major, one quartermaster sergeant, one hospital steward, one chief bugler and two guidon sergeants. To each separate battalion of artillery there

Regimental cavalry and artillery officers. P. S. 14, §§ 26, 27. 1886, 63, § 1. 1887, 411, §§ 26, 27. 1890, 425, § 1. 1891, 232, § 4. 1893, 367, § 26. 1898, 348, § 5. 1900, 188, §§ 1, 2.

shall be one major, and a staff consisting of one surgeon with the rank of major, one adjutant, one quartermaster, one paymaster, who shall be the mustering officer, and one veterinary surgeon, each with the rank of first lieutenant, and one chaplain; and the following non-commissioned staff: one sergeant major, one quartermaster sergeant, one hospital steward, one chief bugler and two guidon sergeants.

Company officers, infantry.
P. S. 14, § 28.
1887, 411, § 28.
1890, 425, § 2.
1893, 367, § 27.
1900, 188, § 3.

SECTION 28. To each company of infantry and battery of heavy artillery there shall be one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, six corporals, one chief cook to rank as corporal, one bugler and not more than forty-six privates; and the minimum number of enlisted men shall be forty-one.

Cavalry.

To each troop of cavalry there shall be one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, five sergeants, seven corporals, one chief cook to rank as corporal, two buglers and not more than sixty-one privates; and the minimum number of enlisted men shall be fifty-six.

Light artillery.

To each battery of light artillery of four guns there shall be one captain, two first lieutenants, one second lieutenant, one first sergeant, one quartermaster sergeant, one stable sergeant, four sergeants, nine corporals, one of whom shall be the guidon, one chief cook to rank as corporal, two artificers, two buglers and not more than sixty-three privates; and the minimum number of enlisted men shall be fifty-seven. To each battery of more than four guns there shall be for each additional gun, one sergeant, two corporals, and not more than sixteen nor less than nine privates; for each additional two guns there shall be one additional second lieutenant.

Staff of unattached troops of cavalry and batteries of light artillery.

To each unattached troop of cavalry or battery of light artillery there shall be a staff consisting of one assistant surgeon with the rank of first lieutenant, and a non-commissioned staff consisting of one hospital steward.

Cadets.
P. S. 14, § 29.
1887, 411, § 29.
1893, 367, § 28.

SECTION 29. To each corps of cadets there shall be one lieutenant colonel, one major, and a staff consisting of one surgeon, with the rank of major, one adjutant, one quartermaster, one paymaster, who shall be the mustering officer, one inspector of rifle practice and one assistant surgeon, each with the rank of first lieutenant, and one chaplain; and the following non-commissioned staff: one sergeant major, one quartermaster sergeant, one hospital steward, and one drum major; and there shall be such number of line officers, not to exceed four captains, four first lieutenants and four second lieutenants, and of non-commissioned officers, musicians and privates, as the commander-in-chief shall deem expedient. The corps of cadets shall be instructed, armed and equipped as the commander-in-chief shall direct, and shall receive the same compensation and allowances as separate battalions of infantry; they shall remain unattached, subject only to the orders of the commander-in-chief, except as provided in section one hundred and twenty-one.

Naval brigade.
1888, 366, §§ 2, 3.
1892, 366, §§ 2–4.
1893, 367, § 29.
1894, 312.

SECTION 30. The officers of the naval brigade shall be one captain, who shall be chief of brigade, with the rank and pay of a colonel of infantry; two lieutenant commanders, who shall be chiefs

of battalion, with the rank and pay of a major of infantry; a staff, consisting of a surgeon, brigade adjutant, an ordnance officer, an equipment officer, a paymaster, who shall be the mustering officer for the brigade, an engineer, a signal officer, and an assistant surgeon. The commander-in-chief may appoint and commission an assistant paymaster and two additional assistant surgeons. The senior lieutenant commander shall be the executive officer of the naval brigade, and the junior lieutenant commander, the navigator of the naval brigade, in addition to their duties as chiefs of battalion. The surgeon shall be a lieutenant commander, with the rank and pay corresponding to that of a major of infantry. The other staff officers, except the paymaster, signal officer and assistant surgeon, shall have the rank of lieutenants, with the rank and pay corresponding to that of captains of infantry. The paymaster, signal officer and assistant surgeon shall have the rank of lieutenant, junior grade, and with the rank and pay of first lieutenants of infantry. The following petty officers shall also be attached to the brigade staff: one master at arms, who shall be the chief petty officer of the brigade, and who shall have the rank and pay of a sergeant major of infantry; one equipment yeoman, two paymaster's yeomen, one apothecary, and one chief bugler, all with the rank and pay of non-commissioned staff of infantry. An engineer's force shall also be attached to headquarters of the naval brigade consisting of four machinists, with the rank and pay of non-commissioned staff of infantry, three water tenders and three oilers, with the rank and pay of sergeants and corporals of infantry, respectively, and fifteen firemen, rating as privates of infantry. The men in the engineer's force shall have the requirements for enlistment in the volunteer militia, and shall be mechanics, steam engineers or firemen of such experience as shall fit them for their several ratings. A signal corps shall be attached to headquarters of the naval brigade, consisting of one chief quartermaster, with the rank and pay of non-commissioned staff of infantry, two quartermasters, with the rank and pay of sergeants of infantry, and eight enlisted men; also a torpedo division, consisting of one chief gunner's mate, with the rank and pay of non-commissioned staff of infantry, two gunner's mates, with the rank and pay of sergeants of infantry, and ten seamen. The brigade commander shall be the recruiting officer for all the above forces and they shall be uniformed and equipped as the commander-in-chief may direct. To each company of the naval brigade there shall be one lieutenant, who shall be chief of company, one lieutenant, junior grade, and one ensign, with rank and pay corresponding to that of captains and first and second lieutenants of infantry, respectively, one chief boatswain's mate, two boatswain's mates, two gunner's mates, two quartermasters, two coxswains, one cook, first class, one bugler, one bayman and forty-four seamen; and the minimum number of enlisted men shall be forty-one. The chief boatswain's mate shall rank with a first sergeant, boatswain's mates and gunner's mates with sergeants, coxswains and quartermasters with corporals of infantry with corresponding pay. The seamen and bayman shall receive the same pay as enlisted men in companies of infantry. The duty of the naval brigade may be performed afloat.

1896, 182.
1898, 407, § 4.
1900, 188, § 3.

Ambulance corps, organization, etc.
1885, 236.
1887, 411, § 29.
1893, 367, § 25.
1894, 236, § 1.
1900, 188, § 3.

SECTION 31. The ambulance corps shall consist of one captain, one first lieutenant, who shall be medical officers, one second lieutenant, one quartermaster sergeant, seven sergeants, ten corporals, one chief cook, to rank as corporal, and forty-one privates. The commissioned officers shall receive the same pay and emoluments as a captain, first lieutenant and second lieutenant of cavalry. The commissioned officers shall be appointed by the commander-in-chief on the recommendation of the surgeon general. Non-commissioned officers shall be appointed by the captain of the corps. The ambulance corps shall be stationed at the state house or elsewhere, as the commander-in-chief may direct, and shall be instructed as the surgeon general may prescribe.

Musicians.
1881, 277, § 1.
P. S. 14, § 30.
1884, 230, § 4.
1887, 411, § 30.
1892, 366, § 5.
1893, 367, § 30.

SECTION 32. The commander of a regiment, battalion of light artillery or cavalry, corps of cadets, the naval brigade, or unattached company, may employ or raise by enlistment, a band of musicians, not to exceed twenty-four in number, to be under his command. Such musicians while on duty, shall be subject to all the laws and regulations for the government of the militia, except that they need not be mustered in.

Disbandment for inefficiency.

SECTION 33. The commander-in-chief may disband any company of the volunteer militia falling below the proper standard of efficiency.

P. S. 14, § 32. 1887, 411, § 31. 1893, 367, § 31.

Election and Appointment of Commissioned Officers.

Eligibility to election or appointment.
P. S. 14, § 33.
1887, 411, § 32.
1893, 367, § 32.

SECTION 34. No person shall be eligible to election or appointment to office in the militia who is not a male citizen of the United States, of eighteen years of age or upwards, resident in this commonwealth, or who is disqualified by law from enrolment in the militia, or who is under sentence of disability to hold office or command, or of suspension from command in the military forces of the United States or of any state. No citizen not enrolled or above the age of forty-five years shall, on that account, be ineligible to office in the militia, nor incapable of serving in a volunteer company.

Rank of commissioned officers.
P. S. 14, § 34.
1887, 411, § 33.
1889, 360, § 1.
1893, 367, § 33.
1895, 465, § 3.
1897, 448, § 3.
152 Mass. 660.
[1 Op. A. G. 254.]

SECTION 35. Commissioned officers shall rank according to the date of their commissions. Between officers of the same grade and date of appointment or commission, where there has been no previous military service, the relative rank shall be determined by lot. Such previous service shall count, as in the army or navy of the United States, and in the volunteer militia or enrolled militia of this commonwealth only, and in the order herein named.

The day of the appointment or election of an officer shall be expressed in his commission, and considered as the date thereof. When an officer is appointed, elected or transferred from one office or organization to another, without loss of grade or continuous service, he shall rank in his grade according to the date of his original commission, which shall be stated in his new commission.

The provisions of this section shall not apply when a commissioned officer is transferred by election or appointment from the staff to the line.

SECTION 36. The staff of the commander-in-chief shall be appointed by him; the staff of a brigade, by the brigadier general commanding; the staff of a regiment of infantry, battalion of artillery, or cavalry, corps of cadets, the naval brigade, or unattached company, by the permanent commander thereof; the officers of signal corps, by the brigadier general commanding, and they shall be commissioned by the commander-in-chief on the request of the appointing officers.

Appointment of staff officers. Const., pt. 2, c. 2, § 1, art. 10. P. S. 14, § 35. 1884, 230, § 6. 1887, 411, § 34. 1893, 367, § 34.

SECTION 37. The following officers of the militia shall be elected by ballot: brigadier generals, by the field officers of the respective brigades; field officers of regiments, battalions of light artillery and cavalry and corps of cadets, by the captains and lieutenants of the several companies of the respective regiments, separate battalions or corps; captains, commander and lieutenant commanders of the naval brigade, by the company officers of the brigade; lieutenants, lieutenants junior grade and ensigns of companies, by the enlisted men of the irrespective companies; captains and lieutenants of companies, by the written votes of the enlisted men of the respective companies, except that in the corps of cadets, captains and lieutenants shall be elected by the written votes of the enlisted men of the respective corps.

Election of line officers. Const., pt. 2, c. 2, § 1, art. 10. Amend. const., art. 5. P. S. 14, § 36. 1887, 411, § 35. 1893, 367, § 35. 1897, 438, § 1.

SECTION 38. Elections of brigadier generals shall be ordered by the commander-in-chief. Elections of other officers shall be ordered either by the commander-in-chief or by such officers as he may authorize.

Orders for elections. P. S. 14, § 37. 1887, 411, § 36. 1893, 367, § 36.

SECTION 39. Elections of officers shall not be ordered in any company unless the minimum number of men are actually enlisted and mustered in. P. S. 14, § 38. 1887, 411, § 37. 1893, 367, § 37.

No election of company officers until minimum number is enlisted.

SECTION 40. Vacancies in the grades of company officers shall be filled and the officers-elect commissioned before an election of field officers is held for the respective organizations; and every vacancy in the grade of field officer shall be filled in each brigade before an election therein of brigadier generals is held.

Vacancies. P. S. 14, § 39. 1887, 411, § 38. 1893, 367, § 38.

SECTION 41. Elections shall be held at the places most convenient for the majority of the electors. 1887, 411, § 39. 1893, 367, § 39.

Elections to be held at convenient places. P. S. 14, § 40.

SECTION 42. Notices for elections shall be given to each elector at least four days before the time of the meeting, either verbally or by delivering to him in person, or leaving at his usual place of business or abode, the order for such election.

Notices for elections. P. S. 14, § 41. 1887, 411, § 40. 1893, 367, § 40.

SECTION 43. Officers ordering elections may preside, or may detail some officer of suitable rank to preside; an officer of the rank of captain may preside at the election of an officer of equal or inferior grade; but no candidate for an office to be filled shall preside at the election, except to adjourn the meeting if no proper officer appears to preside.

Presiding officers at elections. P. S. 14, § 42. 1887, 411, § 41. 1893, 367, § 41.

SECTION 44. The presiding officer shall keep a record of the proceedings and shall, within six days thereafter, make a certified return

Election record, return and notification.

P. S. 14, § 43. 1887, 411, § 42. 1893, 367, § 42.

thereof to the adjutant general, through the proper military channel, for the information of the commander-in-chief; and the officer-elect shall, if he is eligible and accepts, thereupon be commissioned and notified to appear before the examining board.

Presiding officer to be provided with roster. P. S. 14, § 44. 1887, 411, § 43.

SECTION 45. A certified roster of the brigade, regiment, battalion, corps of cadets, or naval brigade, or a certified roll of the company or companies, as the case may be, shall be furnished to the presiding officer previous to an election. 1893, 367, § 43.

Majority of electors to be present. Failure to elect. Adjournment. P. S. 14, §§ 45–47. 1887, 411, §§ 44–46.

SECTION 46. No election shall be held unless a majority of the electors are present. If there is no quorum or the electors present fail to elect and the meeting is adjourned, the presiding officer shall, in writing, report the facts to the adjutant general. Elections may not be adjourned more than twice, and each adjournment shall be for a period not exceeding two days. 1893, 367, §§ 44–46. [1 Op. A. G. 46.]

Election to be by majority. 1878, 265, § 46. P. S. 14, § 48. 1887, 411, § 47.

SECTION 47. The person who has a majority of the ballots of the electors present shall be deemed elected, and the presiding officer shall forthwith notify him of his election. 1893, 367, § 47.

Acceptance within three days of election. 1878, 265, § 47. P. S. 14, § 49.

SECTION 48. Persons elected to office in the militia shall within three days declare, in writing or in person to the officer presiding at their election, their acceptance or declination which shall be a part of the return of the presiding officer. 1887, 411, § 48. 1893, 367, § 48.

Upon refusal to accept, another election. 1878, 265, § 48. P. S. 14, § 50. 1887, 411, § 49. 1893, 367, § 49.

SECTION 49. If the person chosen signifies to the presiding officer, either in person or in writing, his refusal to accept, before the dissolution of the meeting, the same shall be recorded and included in the return, and the electors shall proceed to another election.

Acceptance to vacate previous office. P. S. 14, § 51. 1887, 411, § 50. 1893, 367, § 50.

SECTION 50. The acceptance of one office in the militia shall vacate another office previously held, by the same person therein, for the purpose of election; but the officer shall serve until his successor is qualified, if so ordered by his regimental or battalion commander or by the commander-in-chief.

Commander-in-chief to fill vacancy, when. Const., pt. 2, c. 2, § 1, art. 10.

SECTION 51. When the electors neglect or refuse to fill a vacancy the governor with the advice of the council shall, except as provided in the following section, appoint a suitable person thereto.

P. S. 14, § 52. 1887, 411, § 51. 1893, 367, § 51. 24 Pick. 181.

Company without officers refusing to elect may be disbanded.

SECTION 52. If a company having no commissioned officers has been twice ordered to elect officers and neglects or refuses to elect one of such officers, it may be disbanded by the commander-in-chief.

P. S. 14, § 53. 1887, 411, § 52. 1893, 367, § 52.

Examining Board.

Examining board. P. S. 14, § 54. 1884, 230, § 8. 1887, 411, § 53. 1893, 367, § 53. 1899, 381, §§ 1-3.

SECTION 53. Commissioned officers except the staff officers of the commander-in-chief, medical officers and chaplains shall, upon being notified as provided in section forty-four, appear before an examining board, consisting of not less than five nor more than seven officers designated by the commander-in-chief for a specified term of service. Members of said board shall not take part in the

examination of or give any opinion, information or advice as to the fitness or competence of any officer, who has any business or family connection with them or might, as a result of the examination, come under their immediate command. The commander-in-chief may, if he thinks it necessary, make a temporary detail to fill a vacancy in said board caused by temporary ineligibility or absence.

Record.
1899, 381, § 4.

SECTION 54. A complete record shall be kept by the secretary of the board, elected by the board from its members, of all meetings of the board. Such record shall embrace a statement at length of the proceedings, including the names of the members present, the name of any officer temporarily assigned for duty upon the board, the name of any officer who is absent and the cause of his absence, the name of every officer examined and the questions put to him, with his answers, and copies of all communications from and the originals of all communications to the board, with the findings and action of the board in each case and the reasons therefor. Such record shall be submitted to the board at its next meeting thereafter for approval or correction.

Examination, action and appeal.
P. S. 14, § 54.
1884, 230, § 8.
1887, 411, § 53.
1893, 367, § 53.
1899, 381, § 5.
171 Mass. 338.

SECTION 55. The board shall examine the officers who appear before it, as to their military, moral, physical and general qualifications as hereinafter set forth, and shall administer the oaths prescribed in section sixty-four. If in the opinion of the board the officer is competent it shall so certify to the commander-in-chief, who shall issue his order announcing the result of such examination. If the officer fails to pass a satisfactory examination the board shall so notify him and he may, within ten days from the time when he receives such notice, appeal for a reëxamination to the commander-in-chief, who may, after an examination of the record of the case, order a reëxamination of such officer before said board or before a board convoked by him for the purpose.

Board for medical officers.
1884, 230, § 8.
1887, 411, § 53.
1893, 367, § 53.
1899, 381, § 6.

SECTION 56. Medical officers shall appear before an examining board, consisting of three medical officers designated by the commander-in-chief, which shall certify the competency of such officer, or give its reasons for refusing to so certify, and in such case it shall transmit the complete record, with its reasons for such refusal to the commander-in-chief. It shall administer the oaths prescribed for other commissioned officers.

Discharge; reënlistment; ineligibility.
P. S. 14, §§ 54, 65.
1884, 230, §§ 8, 9.
1887, 411, §§ 53, 64.
1893, 367, §§ 53, 64.
1897, 448, § 8.
1899, 381, § 7.
171 Mass. 338.
[1 Op. A. G. 29.]

SECTION 57. An officer who fails to appear before a board of examiners within forty days after notice of the date of his election or appointment, or who fails to pass a satisfactory examination before the board authorized to examine or reëxamine him shall forthwith be discharged by the commander-in-chief; but such officer may enlist to secure continuous service and his enlistment shall date from the day of his election to the office for which he failed to pass a satisfactory examination, if he so enlists within thirty days from the date of his discharge from the office to which he was elected. A commissioned officer who has been discharged by reason of failure to pass a satisfactory examination shall not be eligible for election or appointment to a commission within two months after such discharge. An officer resigning his commission may enlist to secure

continuous service and his enlistment shall date from the day of his resignation, if he is mustered within thirty days therefrom.

Examination of staff officers. 1899, 381, § 8.

SECTION 58. Examinations for staff positions except for members of the staff of the commander-in-chief and medical officers, shall be limited to officers who have served in the regular or volunteer naval or military forces of the United States or in the militia or naval reserve of some state thereof, and may be of such general character as to experience and moral and military qualifications as the board may in each case determine. A staff officer shall, at his request or if the board so orders, be examined in the manner provided for other officers.

Character of examination of other officers. 1899, 381, §§ 9, 10.

SECTION 59. Other officers shall be examined as to their technical military qualifications by written questions prepared in advance, equal in number and as nearly equal in difficulty as possible for officers of the same grade, the answers to which shall be in writing; but such questions may be greater in number and difficulty for officers of higher grades. A number of sets of such questions for the several grades shall be prepared in advance, under the direction of the board, for examination of officers of the several grades. No special set of questions shall be used in the examination of any officer, and no officer shall be informed in advance of any question or questions, or of any matter upon which he is to be examined. At such written examination every officer shall also make, upon a prepared form, answers showing his military service and experience and his residence and occupation. Any other questions which the board or any member thereof may desire to ask shall be fully written out and the answers thereto shall be in writing. The board may make other inquiry relative to the officer ordered before it for examination, but such inquiry and the answer thereto shall in all cases be in writing, and all communications from and to the board shall be a part of the record and shall be preserved upon its files. Neither the board nor any member thereof shall make any inquiry or receive any communication, oral or written, relative to an officer before it, or who is to come before it, as to any matter affecting his qualifications as an officer in the militia except as above authorized.

Preservation of records, etc. 1899, 381, § 11.

SECTION 60. The secretary of the board shall preserve all examinations, reports and papers, and the findings of the board in the case of each officer; and the same shall upon the demand of the commander-in-chief be laid before him.

Special boards. 1899, 381, § 11.

SECTION 61. The provisions of the eight preceding sections shall, so far as they are applicable, apply also to any special board convoked by order of the commander-in-chief for examination of officers.

Conditional assignment to duty. 1897, 448, § 15.

SECTION 62. An officer who has passed his examination and been assigned to duty shall not thereafter be ordered before the board of examiners while acting under the same commission; but said board may pass a candidate conditionally and order him to appear for further examination within ninety days from the date of his first examination, and an officer so conditionally passed who

fails to appear before the board within the time designated, or who then fails to pass a satisfactory examination, shall be discharged by the commander-in-chief.

Incompetency, etc., how investigated. 1897, 448, § 16.

SECTION 63. An officer who in the opinion of his commanding officer is incompetent, or is impairing the efficiency of the organization to which he is attached, by mismanagement, neglect, or misconduct in civil life for which he is not amenable to court-martial, may, upon the request of his commanding officer, be ordered to appear before a special board of examiners consisting of not less than three nor more than seven officers, none of whom shall be of lower rank than the officer under investigation. The members of such board may, for cause, be challenged by the accused as provided by the regulations as to courts-martial, and vacancies thus created shall be filled in the manner prescribed for military boards. Said board shall without delay inquire into the charges preferred against the accused, and may examine him, as provided in section fifty-five as to his mental and military qualifications; but all questions of fact shall be investigated in accordance with the practice of courts-martial, and the accused may produce any competent evidence by witnesses or otherwise, and be represented by counsel. The president of such board may administer oaths to witnesses, and issue summonses as provided in section one hundred and sixty-three; and officers or soldiers failing to serve such summons or failing to appear when so summoned without a sufficient excuse, shall be liable to trial by court-martial as for disobedience of orders, or may, as well as other witnesses failing to appear, be compelled to appear, as provided by section ten of chapter one hundred and seventy-five. Such board may, with the approval of the commander-in-chief, require a judge advocate to attend its sittings, when taking testimony or investigating any complaint. It shall report the facts, with the evidence and its recommendations, to the commander-in-chief, who may, if the board so recommends, discharge said officer. An officer failing to appear, as ordered, before such special board shall be discharged by the commander-in-chief.

Judge advocate to attend board of examiners.

Oaths of office. P. S. 14, § 55. 1887, 411, § 54. 1893, 367, § 54. 1897, 448, § 17. 3 Cush. 587.

SECTION 64. Every commissioned officer, before entering upon the performance of his official duties or exercising any command, shall take and subscribe the following oaths and declarations: —

I, A. B., do solemnly swear that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me God.

I, A. B., do solemnly swear that I will obey the lawful orders of all my superior officers. So help me God.

I, A. B., do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as , according to the best of my ability and understanding, agreeably to the rules and regulations of the constitution and the laws of the Commonwealth. So help me God.

I, A. B., do solemnly swear that I will support the constitution of the United States. So help me God.

Qualifying officers.

All officers shall take and subscribe such oaths before the examining boards, except the staff officers of the commander-in-chief, who may take such oaths before any competent authority; and the following certificate shall be printed on every commission and be signed by the person before whom such officer is qualified: —

Certificate of qualification.

This may certify that A. B., commissioned as within, on this day of , A. D., , personally appeared and took and subscribed the oaths required by the constitution and laws of this Commonwealth and a law of the United States, to qualify him to discharge the duties of his office. Before me,

Appointment and Reduction of Non-commissioned Officers.

Non-commissioned staff and company officers, appointment.
P. S. 14, § 56.
1887, 411, § 55.
1890, 425, § 3.
1893, 367, § 55.
1900, 188, §§ 3, 6.
5 Pick. 239.
16 Pick. 84.
24 Pick. 172.

SECTION 65. Non-commissioned staff officers of brigades, regiments, battalions of light artillery or cavalry, the naval brigade, corps of cadets and unattached companies shall be appointed by their respective permanent commanders. Such commanders shall appoint the non-commissioned officers of companies, except first sergeants, upon the written nomination of the respective captains; but they may withhold such appointment if in their judgment there be proper cause. Non-commissioned officers of the signal corps, except first sergeants, shall be appointed by their respective brigadier generals commanding, upon the written nomination of the lieutenants commanding such signal corps, but they may withhold such appointment if in their judgment there be proper cause. Non-commissioned officers of unattached companies shall be appointed by their respective captains. The color sergeants, chief bugler and drummers of infantry, and the orderly shall be appointed by regimental commanders. First sergeants shall be appointed by the permanent company, battery, troop or corps commanders, without reference to higher authority, from the duty sergeants of their respective organizations, and may be by said commanders, respectively, returned to the grade of duty sergeant at any time. First sergeants shall be appointed and returned to the grade of duty sergeant by a company order, a copy of which shall be forwarded at once to regimental headquarters; and the relative seniority of first sergeants shall be determined by the dates of the orders appointing them. Chief cooks shall, before receiving their warrants, be examined as to their qualifications for the position, in such manner as the commander-in-chief shall direct.

Reduction to the ranks.
P. S. 14, § 56.
1887, 411, § 55.
1890, 425, § 3.
1893, 367, § 55.
1897, 448, § 6.

SECTION 66. Non-commissioned officers of the signal corps may be reduced to the ranks by the permanent brigade commander. The permanent commander of any regiment, battalion of light artillery or cavalry, the naval brigade, corps of cadets, the ambulance corps or an unattached company may reduce to the ranks any company non-commissioned officer of his command. Permanent commanders of brigades, regiments, battalions of light artillery and cavalry, the naval brigade and of cadet corps may reduce to the ranks non-commissioned staff officers of their corps. Company non-commissioned officers may be reduced to the ranks by sentence of courts-martial. Company non-commissioned officers, having been appointed and assigned to duty, shall not thereafter be reduced to the ranks except at their own request, or for cause clearly set forth in the order reducing them.

Enlistment and Muster-in of Soldiers.

Enlistment and muster in of soldiers.
1881, 277, § 2.
P. S. 14, § 57.

SECTION 67. Every person enlisting in the volunteer militia shall be mustered into the service of the commonwealth for a term of three years; but a soldier who has received an honorable dis-

charge from the Massachusetts volunteer militia, at the expiration of his term of service, may reënlist and be mustered in for a term of one, two or three years at his election. Terms of service, except in cases of reënlistment, shall commence at noon on the day of enlistment, if the enlisted man is mustered in within thirty days thereafter. When a soldier reënlists, and is mustered into service within thirty days from the expiration of his previous term, his term of service shall be considered as continuous and shall commence at noon of the day of such expiration, and enlistments and musters shall be so dated.

1887, 411, § 56. 1893, 367, § 56. 4 Mass. 556. 8 Mass. 279. 11 Mass. 239. 13 Mass. 491. 3 Pick. 226, 264. 11 Pick. 265.

Section 68. All soldiers, except non-commissioned staff officers, shall be enlisted and mustered in as privates.

Enlistment, etc., as privates.

P. S. 14, § 58. 1887, 411, § 57. 1893, 367, § 57.

Section 69. The commanding officers of brigades, regiments, battalions and the naval brigade shall be the recruiting officers for their respective non-commissioned staffs, the commanding officers of corps of cadets, recruiting officers for their respective corps, and persons appointed by the commander-in-chief, for new companies, until a captain shall have been elected or appointed to such company. Colonels of regiments shall be the recruiting officers for color sergeants, the orderly and drummers for their respective commands. Company commanders shall be the recruiting officers for their commands. Upon a vacancy the commanding officers of regiments and battalions may order some officer to perform the duty until such vacancy is filled. Recruiting officers may enroll applicants for enlistment above the maximum allowed by law, not to exceed fifteen in number in each company, and such applicants may be instructed and drilled as recruits, and in the discretion of the recruiting officer may be preferred for enlistment as vacancies may occur.

Recruiting officers. P. S. 14, § 59. 1884, 230, § 7. 1887, 411, § 58. 1890, 425, § 4. 1892, 366, § 6. 1893, 367, § 58.

Additional recruits.

Section 70. The officers named in the preceding section as recruiting officers shall be mustering officers for mustering in and administering the prescribed oath of enlistment to all soldiers enlisted by them. Mustering officers shall forward to the commander-in-chief, through the proper military channels, the returns of the enlistment and muster-in of soldiers as soon as practicable, and not later than ten days thereafter. Said returns shall be in such form, and accompanied by such certificates, descriptive lists and other information relating to the recruit, as may be required by law or prescribed in orders by the commander-in-chief. But no recruit shall be knowingly and intentionally accepted who is not eligible for enlistment under the law, or who is physically or otherwise below the standard prescribed by the commander-in-chief. No recruit having been accepted shall be mustered into the service until all the requirements of the statute law, of the militia regulations, and of all proper orders relating to the enlistment and muster-in of soldiers have been complied with.

Mustering officers. 1900, 188, § 5.

Section 71. Recruits shall sign an enlistment roll, in form as follows: —

Form of enlistment roll. P. S. 14, § 60.

1887, 411, § 59.
1893, 367, § 59.
8 Allen, 480.

I, whose signature is hereunto affixed, do hereby enlist, [or reënlist, as the case may be] in [company, battalion or regiment or corps, etc.] of the Massachusetts volunteer militia for the term set against my name, subject to all laws and regulations which may govern the same; and I do declare that I know of no impediment to my serving honestly and faithfully as a soldier for the term of my enlistment.

Oath to be administered by mustering officer.
P. S. 14, § 61.
1887, 411, § 60.
1893, 367, § 60.

SECTION 72. As soon as practicable, within thirty days after such enlistment, the recruit shall be mustered in by a mustering officer, before whom he shall make oath as follows: —

I, , do solemnly swear that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof; and I do also solemnly swear that I will faithfully observe and obey all laws and regulations for the government of the volunteer militia of said Commonwealth, and the orders of all officers elected or appointed over me. I do also solemnly swear that I will support the Constitution of the United States. So help me God.

Sworn to before me,

, *Mustering Officer.*

Muster of soldier reenlisting out of the state, etc.

No enlisted man shall be held to duty in the volunteer militia or receive any compensation or allowance until he is mustered in. If a soldier reënlisting is absent from the commonwealth, or is at such a distance from his command that he cannot be mustered in by the mustering officer of his regiment, battalion, naval brigade or corps, he may, with the approval of his proper commanding officer, to secure continuous service, take the oath of muster before a notary public, United States commissioner, or United States consul if abroad.

Muster-in of unfit persons forbidden, when.
P. S. 14, § 62.
1887, 411, § 61.
1892, 366, § 6.
1893, 367, § 61.

SECTION 73. The commanding officer of any regiment or battalion of light artillery or cavalry, the naval brigade and corps of cadets, may forbid the mustering in of any person enlisted when in his judgment such person is unfit to be a member of the volunteer militia.

No reënlistment during term of service.
P. S. 14, § 63.

SECTION 74. No soldier whose term of service in one organization has not expired shall enlist in another organization of the volunteer militia. 1887, 411, § 62. 1893, 367, § 62.

Service medals.
1889, 425, § 12.
1891, 252, § 3.
1893, 367, § 127.
1896, 348, §§ 1, 2.
[1 Op. A. G. 36.]

SECTION 75. Any officer or enlisted man who completes nine years' honorable service, continuous or otherwise, shall be allowed a medal, and for each additional five years' like service a bar or clasp.

Discharge and Retirement of Commissioned Officers.

Discharge of commissioned officers.
Amend. const., art. 4.

SECTION 76. An officer may be discharged by order of the commander-in-chief, upon an address of both houses of the legislature or to carry out the lawful sentence of a court-martial.

P. S. 14, § 64. 1887, 411, § 63. 1893, 367, § 63. 1897, 448, § 7.

Honorable discharges.
P. S. 14, § 66.
1887, 411, § 65.
1890, 425, § 5.
1893, 367, § 65.
1896, 425.
1897, 448, § 9.

SECTION 77. An officer may be honorably discharged by the commander-in-chief, upon removal of residence from the commonwealth; upon tender of resignation; upon the disbandment of the organization to which he belongs; or, if a staff officer, on the written request of the officer appointing him; or upon the qualification of his

appointed successor; or when he accepts an appointment in the army or navy of the United States.

Retirement of commissioned officers. 1895, 465, § 4. 1897, 438, § 1; 448, §§ 4, 5. 1898, 84, § 1. 1899, 302, § 1.

SECTION 78. Brigadier generals at the expiration of their term of office shall be placed on the retired list.

Any commissioned officer in the militia service who has served as such in the active militia of this commonwealth for the continuous period of ten years may, upon his own application, be placed upon the retired list, with the rank held by him at the time of making such application; but an officer who, at the time of making such application, has remained in the same grade for the continuous period of ten years, or has served as a commissioned officer for the continuous period of fifteen years, or having served in the army or navy of the United States at any time during the war of the rebellion and having been honorably discharged therefrom, has also served as a commissioned officer in the militia of this commonwealth for the continuous period of five years, shall be retired with rank next in grade above that held by him at the time of making such application.

The commander-in-chief may retire any commissioned officer who shall have been ordered by him before a medical board consisting of at least three commissioned medical officers, if such board report him to be physically unable to perform the duties of his office.

Duties and privileges of retired officers. 1897, 448, § 4. 1898, 84, § 1.

SECTION 79. Retired officers on occasions of ceremony may, and when acting under orders as hereinafter provided shall, wear the uniform of their retired rank. They shall be eligible to perform any military duty to the same extent as if not retired, and the commander-in-chief may, in his discretion, require them to serve upon military boards, courts of inquiry and courts-martial, or to perform any other special or temporary military duty, and for such service they shall receive the pay and allowances provided for like service by officers of the active militia. They shall be amenable to court-martial for military offences, as if upon the active list of the volunteer militia. Their names shall be borne on a separate roster, kept under the supervision of the adjutant general. They shall report to the adjutant general any change in their residence.

Dismissal for crime or sentence of court-martial. P. S. 14, § 67. 1887, 411, § 66. 1893, 367, § 66.

SECTION 80. An officer may be dismissed by the commander-in-chief, who has been convicted of crime, or has been dishonorably discharged or dismissed from the service of the United States, or from the militia of this or any other state; or to carry out the sentence of court-martial.

Certificate of discharge. P. S. 14, § 68. 1887, 411, § 67. 1893, 367, § 67.

SECTION 81. Officers discharged from the service of the commonwealth shall be entitled to a certificate of such discharge, in such form as the commander-in-chief shall direct.

Discharge of Enlisted Men.

Discharge of enlisted men. P. S. 14, § 69. 1884, 230, § 10. 1887, 411, § 68. 1893, 367, § 68.

SECTION 82. No enlisted man shall be discharged before the expiration of his term of service, except by order of the commander-in-chief, and for the following reasons: upon acceptance of promotion

by commission; upon removal of residence from the commonwealth, or so far from the bounds of the command to which he belongs that he cannot, in the opinion of his commanding officer, properly perform his military duty; upon disability, established by certificate of a medical officer; upon conviction of a felony; when in the opinion of the commander-in-chief the interests of the service require his discharge; to carry out the sentence of a court-martial; or upon application of his company commander, approved by superior commanders.

Dishonorable discharge, etc.
P. S. 14, § 70.
1887, 411, § 69.

SECTION 83. A dishonorable discharge, or a discharge in such form as to forbid reënlistment, shall be given only upon a sentence of a court-martial. 1890, 425, § 6. 1893, 367, § 69. 1897, 448, § 10.

Certificate to state reason of discharge.
P. S. 14, § 71.
1887, 411, § 70.

SECTION 84. A discharged soldier shall be furnished with a certificate of discharge, setting forth his rank, and stating clearly the reason for his discharge. 1890, 425, § 7. 1893, 367, § 70. 1897, 448, § 11.

Arms, Uniforms and Equipments.

Commissioned officers to provide their uniforms.
P. S. 14, § 72.
1887, 411, § 71.
1890, 425, § 8.
1893, 367, § 71.

SECTION 85. Commissioned officers shall provide themselves with uniforms, arms and equipments, prescribed by the commander-in-chief which shall be free from attachment, distress, execution or sale for debt or payment of taxes. The uniform or insignia of rank prescribed for the officers of the volunteer militia shall be worn only by persons entitled thereto, by commission under the laws of this commonwealth or of the United States, or of another state of the United States; but an honorably discharged officer may upon public occasions wear the uniform and insignia of rank to which his commission entitled him while in service. A person violating any provision of this section shall be punished by a fine of one thousand dollars, on complaint of any officer of the militia.

Penalty for unauthorized wearing of uniform.

Uniforms, arms, etc., of volunteer militia to be provided by the commonwealth.
P. S. 14, § 73.
1887, 411, § 72.
1893, 367, § 72.
4 Gray, 502.

SECTION 86. Except as provided in the preceding section, organizations of the volunteer militia shall be provided, at the expense of the commonwealth, with the uniforms, arms, equipments, colors, musical instruments, books of instruction and of record, supplies and camp and garrison equipage necessary for their proper training and instruction and the performance of military duty. Such property shall be issued, upon requisition, to the commanders of brigades, regiments, battalions, corps of cadets, companies, signal and ambulance corps, or detachments, by the quartermaster general; but in time of peace no uniforms, arms, equipments or supplies shall be issued to or for the use of any company which has not the minimum number of enlisted men.

Uniform of the volunteer militia.
P. S. 14, § 74.
1887, 411, § 73.
1890, 425, § 9.
1893, 367, § 73.

SECTION 87. The uniform of the volunteer militia shall conform as nearly as practicable to that of the regular army of the United States, shall be substantially alike for each arm of the service, and the style shall be prescribed by the commander-in-chief. No uniforms, except required yearly supplies, shall be provided by the commonwealth without a special appropriation for that purpose, and they shall be purchased under such inspection as the commander-in-chief may direct.

SECTION 88. The uniforms, arms, equipments and other property so provided shall remain the property of the commonwealth, shall be used only for military purposes; and be returned when ordered by the quartermaster general. 1887, 411, § 74. 1893, 367, § 74.

State uniforms, arms, etc., to be used for military purposes only. P. S. 14, § 75.

SECTION 89. An officer shall, on the first day of July and December in each year, make a full return of the public property for military use for which he is accountable, in such form as may be prescribed, and shall within fifteen days forward it to the quartermaster general.

Officers to make returns of military property. P. S. 14, § 76. 1887, 411, § 75. 1893, 367, § 75.

SECTION 90. All arms, equipments and military property furnished to the several commands shall be deposited in the armories or command headquarters. P. S. 14, § 77. 1887, 411, § 76. 1893, 367, § 76.

Military property to be kept in armories, etc.

SECTION 91. Every officer, non-commissioned officer and soldier shall immediately after use return thereto all military property of the commonwealth issued to him for military service, and the possession by him when not on duty, or without permission, of any such property elsewhere than in the armory or command headquarters, shall be prima facie evidence of embezzlement.

— if issued for service, to be returned after use. P. S. 14, § 78. 1884, 230, § 11. 1887, 411, § 77. 1893, 367, § 77.

SECTION 92. No soldier shall wear or use, except upon military duty or by special permission of his company commander or other competent authority, any uniform or other article of military property belonging to the commonwealth.

Soldier to wear uniform only on duty, etc. P. S. 14, § 79. 1887, 411, § 78. 1893, 367, § 78.

SECTION 93. An officer, non-commissioned officer or soldier shall be responsible for the care, safe keeping and return of a uniform or other military property delivered to him; he shall use the same for military purposes only, and upon receiving a discharge or otherwise leaving the military service, or upon the demand of his commanding officer, shall forthwith deliver said uniform, and all other military property in his possession, to said commanding officer, in good order and condition, reasonable use and ordinary wear thereof excepted.

Responsibility for care and return of military property. P. S. 14, § 80. 1887, 411, § 79. 1893, 367, § 79.

SECTION 94. A soldier who wilfully or maliciously destroys, injures or defaces any military property belonging to or in the care of the commonwealth, or retains it in violation of the provisions of the two preceding sections, shall, on complaint of the officer responsible for such property, be punished by a fine of not more than forty dollars, to be paid into the treasury of the commonwealth.

Penalty for injury to military property. P. S. 14, § 81. 1887, 411, § 80. 1893, 367, § 80. 1897, 448, § 12.

SECTION 95. Commissioned officers shall exercise the strictest care and vigilance for the preservation of the uniforms, arms, equipments and military property furnished to their several commands; and in case of any loss thereof or damage thereto, by their neglect or default, they shall be liable to punishment by sentence of court-martial for neglect of duty.

Commissioned officers liable to be court-martialed for damage to military property, etc. P. S. 14, § 82. 1887, 411, § 81. 1893, 367, § 81.

SECTION 96. An officer shall be accountable for public property received by him for military use; and shall not sell, loan or transfer the same, or any part thereof, without the authority of the com-

Officers accountable for military property, etc.

P. S. 14, § 83. 1887, 411, § 82. 1893, 367, § 82.

mander-in-chief; and shall be liable to the commonwealth for all property defaced, injured, destroyed or lost by his neglect or default, or its value, to be recovered in an action of tort, commenced by the judge advocate general in the name of the commonwealth.

Officer to turn over property and records to successor, etc. P. S. 14, § 166. 1887, 411, § 164. 1893, 367, § 164.

SECTION 97. An officer of the volunteer militia shall on vacating an office turn over to his immediate successor or other officer designated by the commander-in-chief, all records, reports and military property in his possession belonging or in any way pertaining to such office.

Liability of officers upon disbandment. P. S. 14, § 84. 1887, 411, § 83. 1893, 367, § 83.

SECTION 98. Upon the disbandment of any organization which has received property for military use from the quartermaster general, the commissioned officers thereof shall be responsible for the safe return to him of all such property in its possession; and the officer receipting for such property shall be liable for any loss or damage thereto as provided in section ninety-six.

— to continue until notified that accounts are correct, etc. P. S. 14, § 85. 1887, 411, § 84. 1893, 367, § 84.

SECTION 99. Until an officer or his legal representative receives from the adjutant general notice that the property accounts of such officer have been found correct, the liability of such officer or of his estate for public property for which he is or may have been responsible shall not be affected by resignation, discharge, change in official position or death. Upon the death or desertion of an officer responsible for public property his immediate commander shall at once cause such property to be collected, and a correct inventory made by actual count and examination and forwarded to the adjutant general; and compensation for any deficiency may be recovered as provided in section ninety-six.

Adoption of other than prescribed uniform, etc. P. S. 14, § 86. 1887, 411, § 85. 1893, 367, § 85.

SECTION 100. Any organization of the militia may, with the approval of a majority of its commissioned officers and of the commander-in-chief, adopt at its own expense any other uniform than that prescribed in section eighty-seven; but such uniform shall not be worn, except by permission of the commander-in-chief, when such organization is on duty under his orders.

Personal property of volunteer organizations. P. S. 14, § 87. 1887, 411, § 86. 1893, 367, § 86.

SECTION 101. Volunteer organizations may own personal property, which shall be under the control of the active members thereof; and the commanding officer of any organization may recover in his own name for its use in any county where such organization or part thereof is located, any debts or effects belonging to it, or damages for injury to such property. No suit or complaint pending in his name shall be abated by his ceasing to be commanding officer of the organization; but his successor shall be admitted to prosecute the suit or complaint.

Inspection and condemnation of military property, etc. P. S. 14, § 88. 1887, 411, § 87. 1893, 367, § 87.

SECTION 102. The inspector general with two officers designated by the commander-in-chief shall constitute a board to inspect and condemn public military property unfit for use; and no property shall be sold until it has been so inspected and condemned, and such condemnation approved by the commander-in-chief. The proceeds of all sales thereof shall be paid into the treasury of the commonwealth.

SECTION 103. The committee on military affairs of the general court shall annually visit and make a thorough examination into the condition of the arsenal, state camp ground and storehouses of the arms and munitions of war and other property of the commonwealth or general government deposited there, and make report thereof to the general court.

Legislative committee to annually examine arsenal, camp ground, etc.
P. S. 14, § 89.
1887, 411, § 88.
1893, 367, § 88.

SECTION 104. The quartermaster general, under the direction of the commander-in-chief, may, without expense to the commonwealth, lend military camp equipage to any state encampment of posts of the grand army of the republic, and permit it to occupy the state camp ground at Framingham and its appurtenances for a state encampment, when it can be done without interfering with its use by the militia. A bond, with sufficient sureties in double its value, shall be given for the return of such camp equipage without loss or damage.

Camp equipage may be loaned to grand army of the republic, etc.
Res. 1881, 19.
P. S. 14, § 91.
Res. 1882, 15.
1887, 411, § 89.
1893, 367, § 89.

Armories.

SECTION 105. The mayor and aldermen and selectmen shall provide for each regiment, battalion, corps of cadets, or portion of the volunteer militia, within the limits of their respective cities and towns, a suitable armory for the purpose of drill and for the safe keeping of the arms, equipments, uniforms and other military property, suitable places for parade, drill and target practice; and a suitable room for the headquarters located within their limits of each brigade, regiment, separate battalion or corps of cadets, for the keeping of books, the transaction of business and the instruction of officers, with necessary fuel and lights, or a reasonable allowance therefor, for each armory or headquarters located within their limits. Any city or town failing to comply with this section shall forfeit to the use of the commonwealth not more than five thousand dollars.

Cities and towns to provide armories, headquarters, etc.
P. S. 14, § 92.
1887, 411, § 90.
1893, 367, § 90.
148 Mass. 581.
[1 Op. A. G. 63.]

Fuel and lights.

Penalty.

SECTION 106. The governor, with the advice and consent of the council, may appoint three persons to be armory commissioners, one of whom shall be an experienced builder. They shall receive such compensation as the governor and council shall determine.

Armory commissioners; appointment, compensation.
1888, 384, § 1.

SECTION 107. They shall acquire, in each city in which two or more companies of militia are located, suitable land, and erect thereon an armory for the companies and militia headquarters and detachments of the militia as are located in such city, and the necessary rooms for drills and care of state property; but no land shall be acquired until the site and no building shall be erected until the plans have been approved by the governor and council. They shall cause to be recorded in the registry of deeds for the county and district in which the land lies a description of the land taken as aforesaid, as certain as is required in an ordinary deed, with a statement signed by the commissioners that it is taken for the city in which it is situated. The act and time of filing thereof shall be the act and time of taking such land and notice to all persons that the same has been so taken. The title to the land so taken shall vest absolutely in the city in which it is situated and its assigns. They may, by agreement with the owner of the land taken, determine the value thereof, and in default of such agreement either

—to acquire land for armories.
1888, 384, §§ 2–4.

party may have a jury in the superior court to determine such value, in the manner provided for the determination of damages for land taken for highways in such city, if the petition therefor is filed in the clerk's office of the superior court for the county in which the land lies, within one year from the taking.

Enlargement of armories. 1894, 211.

At the request of the city council of a city in which an armory built by them is situated, they shall enlarge the same at an expense limited by such city council.

Damages, payment of. 1888, 384, § 5.

SECTION 108. The amount determined by agreement of said commissioners, or verdict, as the value of any property so purchased or taken, shall be paid from the treasury of the commonwealth, upon the execution of such release or conveyance as shall be prescribed by the attorney general.

Armory Loan. 1888, 384, § 6. 1894, 211, § 2.

SECTION 109. To meet the expenses incurred under the two preceding sections, the treasurer and receiver general shall, with the approval of the governor and council, issue registered or coupon bonds in the name and behalf of the commonwealth, and under its seal, for a term not exceeding thirty years, with interest not exceeding four per cent per annum, payable semi-annually, on the first day of March and September. They shall be designated on the face "ARMORY LOAN"; shall be countersigned by the governor, and shall be sold at public auction, or in such other mode and at such times and prices and in such amounts, and at such rate of interest, not exceeding four per cent per annum, as the governor and council shall deem for the best interest of the commonwealth.

Sinking fund. 1888, 384, § 7. 1894, 211, § 2.

SECTION 110. The treasurer and receiver general shall, on issuing said bonds, establish a sinking fund and apportion thereto annually an amount sufficient with its accumulations to extinguish the debt at maturity.

Apportionment, assessment and payment.

The amount required each year to pay the interest and sinking fund requirements shall be assessed upon the city in which such armory is located, in the apportionment and assessment of its annual tax; and the treasurer and receiver general shall notify such city of the assessment which shall be paid by it with its state tax, and after said debt has been extinguished no rent shall be paid by the commonwealth for the use of said armories.

Armories to be under control of the adjutant general. 1888, 384, § 8.

SECTION 111. Said armories shall be under the control of the adjutant general, under the orders of the commander-in-chief, and all expenses of the care, furnishing and repairs of the same shall be paid by the commonwealth.

Foregoing sections to be accepted, etc., by city before proceedings. 1888, 384, § 9.

SECTION 112. No proceedings shall be had and no expense incurred under the five preceding sections until they have been accepted, and the city council has designated the amount of the loan necessary for acquiring land and erecting an armory.

Drill halls to be provided, when. P. S. 14, § 93. 1887, 411, § 91. 1893, 367, § 91.

SECTION 113. Where two or more companies of the same battalion are located in a city or town, the mayor and aldermen or selectmen shall, if practicable, provide a drill hall to be used by them in common, sufficient for battalion drill, and a smaller room in the same building for each company, suitable for company meet-

ings and for the safe keeping of military property. The headquarters of each regiment, battalion and corps of cadets shall, if practicable, be established with said commands, or portions thereof.

SECTION 114. Cities and towns in which regiments, battalions, corps of cadets or companies, or the headquarters of brigades, regiments, battalions, corps of cadets, signal and ambulance corps, or detachments of militia are located, may raise money by taxation or otherwise for the purpose of acquiring land and erecting suitable buildings for the armories or headquarters of such organizations.

Money may be raised by taxation for building armories or headquarters. P. S. 14, § 94. 1887, 411, § 92. 1893, 367, § 92. 137 Mass. 171, 175.

SECTION 115. When a company is formed from different places the location of its armory shall be determined by a majority of its members, subject to the approval of the adjutant general.

Location of armory, etc. P. S. 14, § 95. 1887, 411, § 93. 1893, 367, § 93.

SECTION 116. Armories provided for the militia shall not be used except by the active militia, and they shall not be let to or occupied by any one except for a proper military purpose, and then only upon application approved by the commander-in-chief and intermediate commanders. [1 Op. A. G. 508.]

Use of armories limited. P. S. 14, § 96. 1887, 411, § 94. 1893, 367, § 94. 1895, 465, § 5.

SECTION 117. Every officer whose command occupies, assembles or drills in any armory, drill hall or building allowed according to law for such purpose, shall have control of such premises during the period of occupation, subject to the orders of his superior officers; and any person who intrudes contrary to his orders or the orders of his superior officers, or who interrupts, molests, obstructs or insults the troops or any of them so occupying such premises, may be dealt with as provided in sections one hundred and forty-one and one hundred and forty-two for like offences at the discretion of such officer or of his superior officers; but reasonable inspection of the premises may be made by the mayor and aldermen or by the selectmen, or by the owners of the premises, if according to the terms of the lease. There shall annually be paid from the treasury of the commonwealth to each company the sum of one hundred and twenty-five dollars for the services of the janitor of its armory if such janitor is not paid directly by the commonwealth.

Officers to control armory during occupation. P. S. 14, § 97. 1887, 411, § 95. 1893, 367, § 95.

Penalty for molesting troops therein.

Janitor. 1897, 253.

SECTION 118. The mayor and aldermen and selectmen shall annually on the first day of October make a return to the adjutant general under the oath of at least two of their board, stating the name of each militia organization or headquarters furnished with an armory, the amount paid or charged for the rent thereof, and that the same is fair and reasonable according to the value of real estate in their place. Returns received after the first day of December shall not be allowed.

Rent paid to be certified to the adjutant general, etc. P. S. 14, § 98. 1885, 147. 1887, 411, § 96. 1893, 367, § 96.

SECTION 119. The adjutant general shall examine all such returns, make any necessary inquiries, and, under the direction of the commander-in-chief, allow them, in whole or in part, to an amount not exceeding six hundred dollars for a company of light artillery or cavalry, four hundred dollars for a company of infantry, heavy artillery or of the naval brigade, and pro rata for signal and ambu-

Claims for rent to be audited by adjutant general. P. S. 14, § 99. 1887, 411, § 97. 1893, 367, § 97.

lance corps, and not exceeding two hundred dollars for each brigade, regimental or separate battalion headquarters. The amount to be allowed to a corps of cadets shall be determined by the commander-in-chief, not to exceed the allowance which would be made in the aggregate to a battalion of four companies and the headquarters thereof. The adjutant general shall, not later than the fifteenth day of December of each year, file with the auditor his certificate, stating the sums allowed, the name of the command for whose use each sum is allowed, and the city or town to which it belongs; and shall thereupon notify the mayor and aldermen or selectmen of the sum allowed to their place; which shall be paid to such city or town.

Tours of Duty, Inspection and Drills.

Volunteer militia to be ordered out upon an invasion or insurrection. P. S. 14, § 100. 1887, 411, § 98. 1893, 367, § 98. 8 Mass. 549.

SECTION 120. The commander-in-chief shall call out the volunteer militia to repel an invasion or suppress an insurrection made or threatened. If such invasion or insurrection or imminent danger thereof is so sudden that the commander-in-chief cannot be informed and his orders seasonably received and executed, a brigade commander in that part of the commonwealth may order out his brigade, or any part thereof.

Troops may be ordered out upon a riot or tumult. P. S. 14, § 101. 1887, 411, § 99. 1893, 367, § 99. 5 Gray, 121.

SECTION 121. In case of a tumult, riot, mob, or a body of men acting together by force, to violate or resist the laws of the commonwealth, or when such tumult, riot or mob is threatened, and the fact appears to the commander-in-chief, to the sheriff of the county, to the mayor of the city or the selectmen of the town, the commander-in-chief may issue his order, or such sheriff, mayor or selectmen may issue a precept, directed to any commander of a brigade, regiment, battalion, corps of cadets or company, within their jurisdiction, directing him to order his command, or a part thereof, to appear at a time and place therein specified, to aid the civil authority in suppressing such violence and supporting the laws; which precept shall be in substance as follows: —

COMMONWEALTH OF MASSACHUSETTS.

Form of precept.

To [insert the officer's title] *A. B., commanding* [insert his command].

Whereas, it appears to [the sheriff, mayor or the selectmen] of the [county, city or town] of , that [here state one or more of the causes above-mentioned] in our of , and that military force is necessary to aid the civil authority in suppressing the same: Now, therefore, we command you that you cause [your command, or such part thereof as may be desired], armed and equipped with ammunition and with proper officers, to parade at , on , then and there to obey such orders as may be given according to law. Hereof fail not at your peril, and have you there this precept with your doings returned thereon.

This precept shall be signed by such sheriff, mayor or selectmen, and may be varied to suit the circumstances of the case; and a copy of the same shall be immediately forwarded to the commander-in-chief.

Officer to order troops to parade, etc. P. S. 14, § 102. 1887, 411, § 100. 1893, 367, § 100.

SECTION 122. The officer to whom the order of the commander-in-chief or brigade commander, or such precept, is directed shall forthwith order the troops therein called for to parade at the time and place appointed, and shall immediately notify the commander-

in-chief of his order, directly in the most expeditious manner, and by letter through the usual military channels.

SECTION 123. If an officer refuses or neglects to obey such order or precept, or if any officer or soldier neglects or refuses to obey an order issued in pursuance thereof, he shall be punished as a court-martial may adjudge.

Penalty on officer for neglect, etc.
P. S. 14, § 103.
1887, 411, § 101.
1893, 367, § 101.

SECTION 124. Such troops shall appear at the time and place appointed, armed, equipped and with ball ammunition, and shall obey and execute such orders as they may then and there receive, according to law.

Troops to appear armed and equipped.
P. S. 14, § 104.
1887, 411, § 102.
1893, 367, § 102.

SECTION 125. If a company without officers is ordered to march, or if a detachment is ordered therefrom, the commander of the regiment or battalion shall detail an officer to command, who shall have the same authority and responsibility as the captain of such company.

Detail of officer to command, if company is without officers.
P. S. 14, § 105.
1887, 411, § 103.
1893, 367, § 103.

SECTION 126. The mayor and aldermen of the city and the selectmen of the town to which men ordered out, detached or drafted belong, when required in writing by a commander of a regiment or detachment, shall provide carriages to attend them with supplies of provisions, and to carry necessary baggage, and shall provide necessary camp equipage and utensils, until notified to the contrary by the commanding officer; and shall present their accounts for the same to the quartermaster general. For any neglect by such mayor and aldermen or selectmen, under the provisions of this section, such city or town shall forfeit to the use of the commonwealth not less than twenty nor more than five hundred dollars.

Carriages, supplies, etc., to be provided, etc., by cities and towns.
P. S. 14, § 106.
1887, 411, § 104.
1893, 367, § 104.

Penalty.

SECTION 127. When the entire volunteer militia has been called out under sections one hundred and twenty and one hundred and twenty-one, and a further force is required, it shall be taken from the enrolled militia, as provided in section ten.

Additional force to be taken from enrolled militia.
P. S. 14, § 107.
1887, 411, § 105.
1893, 367, § 105.

SECTION 128. Each regiment, separate battalion, corps of cadets and unattached company of the volunteer militia shall parade for instruction one day in each year, at a time and place appointed by the commander-in-chief. The inspector general, his assistants, or other officers designated by the commander-in-chief, shall attend such tours of duty and within thirty days thereafter, report in writing to the commander-in-chief upon the proficiency of the troops.

Annual parade for drill and inspection.
1881, 277, § 3.
P. S. 14, § 108.
1884, 230, § 12.
1887, 411, § 106.
1893, 367, § 106.

SECTION 129. The volunteer militia shall perform not less than seven consecutive days of camp duty in each year, at a time and place designated by the commander-in-chief. 1893, 367, § 107. 1898, 348, § 1.

Annual camp duty.
P. S. 14, § 109.
1884, 230, § 13.
1887, 411, § 107.

SECTION 130. All encampments shall be held upon the state camp ground, unless otherwise directed by the commander-in-chief; and no ground shall be occupied for an encampment of the militia in time of peace without the consent of the mayor and aldermen of the city or of the selectmen of the town where the encampment is to be held, unless by order of the commander-in-chief. The common-

Encampments at state camp ground, unless otherwise directed.
P. S. 14, § 110.
1887, 411, § 108.
1893, 367, § 108.
7 Gray, 359.

wealth shall pay for the use of such ground on contracts approved by the adjutant general.

Camp duty; inspector general, report, etc.
1881, 277, § 4.
P. S. 14, § 111.
1884, 230, § 14.
1887, 411, § 109.
1893, 367, § 109.

SECTION 131. At each encampment the troops shall be thoroughly exercised in the routine of camp duty. The inspector general and such assistants as may be detailed shall be present, and he shall, within thirty days thereafter, report in writing to the commander-in-chief in regard to numbers, discipline and other matters affecting the character or efficiency of the organizations.

Judge advocate general, etc.; attendance and jurisdiction at encampment.
P. S. 14, § 112.
1887, 411, § 110.
1893, 367, § 110.

SECTION 132. The judge advocate general or any judge advocate may be detailed by the commander-in-chief to attend any encampment, and, during the encampment, shall within the limits of the camp and for a distance of one mile from the guard line, have the jurisdiction of a district court over all offences then and there committed.

Notice for appearance for duty.
1878, 265, § 110.
P. S. 14, § 114.
1887, 411, § 111.
1893, 367, § 111.
15 Pick. 7.
21 Pick. 332.

SECTION 133. The notice for the duty required at drills under section one hundred and twenty-eight, and at camp under section one hundred and twenty-nine, shall be given to each person verbally, or by delivery to him in person, or by leaving at his abode or usual place of business the order therefor, at least four days previous to the time appointed. 23 Pick. 54, 57. 22 Pick. 406.

Orders may be delivered by enlisted men.
1878, 265, § 111.
P. S. 14, § 115.

SECTION 134. Commanders of regiments, battalions of light artillery and cavalry, the naval brigade and corps of cadets or companies may direct such orders to be delivered by one or more of the enlisted men of their command. 1887, 411, § 112. 1893, 367, § 112.

Meetings of officers for instruction.
P. S. 14, § 116.
1887, 411, § 113.
1893, 367, § 113.

SECTION 135. Brigade commanders may, six times in each year, call meetings for instruction of their staff officers, field officers, adjutants, and captains of unattached companies of their commands, at some convenient place within the limits of their brigades, or at such place as the commander-in-chief may designate. Commanders of regiments, battalions and corps of cadets may call similar meetings of the officers of their respective commands six times in each year. No compensation shall be allowed for attendance at such meetings, but the quartermaster general shall provide the necessary transportation for all officers attending such meetings, at the rates established by law, when the distance travelled exceeds five miles. At the discretion of the commander-in-chief a school for officers may be established in any portion of the commonwealth, under such regulations as he deems proper.

Transportation.

School for officers.

Visits by commanding officers.
1887, 411, § 128.
1891, 232, § 2.
1893, 367, § 127.
1898, 348, § 2.

SECTION 136. Brigade commanders may visit the headquarters and companies of their brigades whenever they consider it necessary for military instruction. Commanders of regiments, battalions of light artillery and cavalry, of the naval brigade and naval battalions and of the cadet corps may visit the companies in their commands six times each year; lieutenant colonels, majors and adjutants, such companies as they are ordered to visit by regimental or battalion commanders, six times each year; inspectors of rifle practice may visit the companies in their respective organizations, when ordered so to do, three times each year; assistant inspectors general of bri-

gades, when ordered so to do by their commanding officers, may visit each company in their brigade once in each year. Mileage for such visits shall be allowed on receipt of returns therefor at the rate of four cents a mile each way, the distance being computed by the line of the most direct railway communication from the residence of the officer.

Escort duty, mounted bands. P. S. 14, § 117.

SECTION 137. The commander-in-chief may order out any portion of the militia for escort and other duties, and authorize the use of mounted bands. 1887, 411, § 114. 1893, 367, § 114.

Companies or officers may be assembled for instruction or inspection. P. S. 14, § 118. 1887, 411, § 115. 1893, 367, § 115.

SECTION 138. The commander of any regiment, battalion of light artillery or cavalry, the naval brigade or corps of cadets may at any time assemble the companies, or the officers of his command, for instruction; and the commander of a brigade, regiment, battalion or corps of cadets may order company inspections in the evening at the several company armories, when the good of the service requires.

Company and battalion drills. P. S. 14, § 119. 1887, 411, § 116. 1893, 367, § 116.

Transportation.

SECTION 139. Every company shall drill at least twice in each month or oftener on the order of commanding officers. Battalion drills may count in the place of company drills. Battalions of infantry regiments may, without pay, be assembled for instruction twice each year, by order of the commander-in-chief. Transportation shall be furnished by the quartermaster general.

No voluntary parades without approval. P. S. 14, § 120. 1887, 411, § 117. 1893, 367, § 117.

SECTION 140. No parade or voluntary service shall be performed by any company, under arms or with state uniform, without the approval of the regimental or separate battalion commander, or, if unattached, of its next superior commander.

Bounds of parades or encampment. P. S. 14, § 121. 1887, 411, § 118. 1893, 367, § 118.

Punishment for intrusion, etc.

SECTION 141. Every commanding officer, when on duty, may fix necessary bounds and limits to his parade or encampment, not including a road so as to prevent passing, within which no person shall enter without his leave. Whoever intrudes within the limits of the parade or encampment, after being forbidden, may be confined under guard during the time of parade or encampment, or a shorter time, at the discretion of the commanding officer; and whoever resists a sentry attempting to exclude him from such limits may be arrested by order of the commanding officer and tried upon his complaint for such assault or disturbance or breach of the peace.

Penalty for molesting or insulting troops on duty. P. S. 14, § 122. 1887, 411, § 119. 1889, 360, § 3. 1893, 367, § 119.

SECTION 142. If any person interrupts, molests or insults, by abusive words or behavior, or obstructs any officer or soldier while on duty or at any parade, drill or meeting for military improvement, he may be put immediately under guard and kept at the discretion of the commanding officer until the duty, drill, parade or meeting is concluded; and he may commit such person to any police officer or constable of the city or town wherein such duty, parade, drill or meeting is held, who shall detain him in custody for examination or trial before a court having jurisdiction of the place; and any person found guilty of either of the offences enumerated in this section, or in sections one hundred and seventeen and one hundred and forty-one or of obstructing or interfering with United States forces or troops or any portion of the militia in the exercise or enjoyment

of the right of way granted by the following section, shall be punished by imprisonment for not more than six months or by a fine of not more than one hundred dollars.

Troops on duty to have right of way.
P. S. 14, § 123.
1887, 411, § 120.
1893, 367, § 120.

SECTION 143. United States forces or troops, or any portion of the militia parading or performing any duty according to law, shall have the right of way in any street or highway through which they may pass, provided the carriage of the United States mails, the legitimate functions of the police, and the progress and operations of fire engines and fire departments shall not be interfered with thereby.

Soldiers may be put under guard, when.
P. S. 14, § 124.
1887, 411, § 121.
1893, 367, § 121.

SECTION 144. Any soldier guilty of a military offence may be put and kept under guard by the commander of the company, corps, battalion or regiment, or of the field, for a time not extending beyond the term of service for which he is then ordered.

Personal services necessary for receipt of compensation.
P. S. 14, § 125.
1887, 411, § 122.
1893, 367, § 122.

SECTION 145. No officer or soldier in the volunteer militia shall be entitled to compensation for military service unless he personally performs the same, although he may be excused therefrom; and no substitute shall be allowed any compensation for such service.

Parades forbidden on election day except in case of riot, etc.
P. S. 14, § 126.
1887, 411, § 123.
1893, 367, § 123.

SECTION 146. Except in case of invasion, insurrection, riot or tumult made or threatened, or in obedience to the commander-in-chief, no officer or soldier shall be required to perform military duty on a day appointed for a state election in the city or town in which he resides; and an officer parading his command, or ordering it to parade, contrary to the provisions of this section, shall be liable to trial by court-martial.

Drilling, etc., of unauthorized associations with firearms prohibited.
P. S. 14, § 127.
1882, 179.
1884, 230, § 15.
1887, 411, § 124.
1890, 425, § 10.
1893, 367, § 124.
1895, 465, § 6.
1900, 162.
166 Mass. 171.
[1 Op. A. G. 86, 543, 552.]

SECTION 147. No body of men, except the volunteer militia, the troops of the United States and the ancient and honorable artillery company of Boston, shall maintain an armory or associate together at any time as a company or organization, for drill or parade with firearms; nor so drill or parade; nor shall any city or town raise or appropriate money toward arming, equipping, uniforming, supporting, or providing drill rooms or armories for any such body of men: *provided*, that associations wholly composed of soldiers honorably discharged from the service of the United States may parade in public with arms, upon the reception of any regiments or companies of soldiers returning from said service, and for escort duty at the burial of deceased soldiers, with the written permission of the mayor and aldermen of the city or selectmen of the town in which they desire to parade; that students in educational institutions where military science is a prescribed part of the course of instruction may, with the consent of the governor, drill and parade with firearms in public, under the superintendence of their teachers, and any body of men under eighteen years of age may, with the consent of the governor, drill and parade in public with any harmless imitation of firearms which has been approved by the adjutant general; that regularly organized posts of the grand army of the republic, and regularly organized camps of the legion of Spanish war veterans, may, at any time, parade, in public, their color guards of not more than twelve men, armed with firearms; that regularly organized camps of the sons of veterans may at any time parade in

Color guards of grand army posts and sons of veterans may parade with firearms.
Res. 1890, 67.
1901, 274.

public their color guards of ten men with firearms; and that any organization heretofore authorized thereto by law may parade with sidearms, and any veteran association composed wholly of past members of the militia of this commonwealth may maintain an armory for the use of the organizations of the militia to which its members belonged.

SECTION 148. Whoever violates the provisions of the preceding section, or belongs to or parades with any such unauthorized body of men with firearms, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Penalty for parading contrary to law.
P. S. 14, § 128.
1887, 411, § 125.
1893, 367, § 125.
1895, 465, § 7.

Excuses for Non-performance of Duty.

SECTION 149. No officer or soldier of the volunteer militia not on leave of absence or furlough shall be excused from duty in time of insurrection, invasion or disturbance of the peace, except upon physician's certificate of disability. If such officer or soldier is absent without leave and does not produce such certificate to his commanding officer, or in case of unattached companies his brigade commander, he shall be tried by court-martial for desertion, or absence without leave. Sickness shall not be an excuse unless he procures a certificate or satisfies the court-martial that he was unable to procure the same. Commanding officers of regiments, battalions, corps of cadets or, in case of unattached companies, brigade commanders, may, on sufficient grounds, or according to the by-laws provided in section one hundred and sixty-nine, excuse absences from camp duty and drills. Delinquents who fail to pay fines imposed shall be tried by court-martial.

Excuse from duty on physician's certificate.
P. S. 14, § 129.
1887, 411, § 126.
1893, 367, § 126.
1 Mass. 81.
9 Mass. 322.
11 Mass. 456, 540.
14 Mass. 290.
17 Mass. 51.
3 Pick. 386.
7 Pick. 251.

Pay and Allowances.

SECTION 150. There shall be allowed and paid per diem to officers and soldiers of the volunteer militia, on rolls and accounts in such form as the commander-in-chief may prescribe, for the duty prescribed in sections one hundred and twenty, one hundred and twenty-one, one hundred and twenty-eight, one hundred and twenty-nine and one hundred and thirty-seven, as follows: brigadier general, fifteen dollars and twenty-eight cents; colonel, nine dollars and seventy-three cents; lieutenant colonel, eight dollars and thirty-three cents; major, six dollars and ninety-five cents; captain mounted, five dollars and fifty-five cents; captain, not mounted, five dollars; adjutant, quartermaster, assistant surgeon, paymaster, and inspector of rifle practice, five dollars; first lieutenant, mounted, four dollars and seventy-five cents; first lieutenant, not mounted, four dollars and seventeen cents; second lieutenant, mounted, four dollars and seventeen cents; second lieutenant, not mounted, three dollars and eighty-nine cents; chaplain, four dollars and seventeen cents; non-commissioned staff officers, two dollars and fifty cents; members of a band, five dollars; chief cooks and, in the naval brigade, cooks, first class, four dollars if, in such form as the commander-in-chief prescribes, it is certified and made to appear that in each case the duty of superintending and assisting in the preparation of the food of the company was actually performed by the

Compensation of officers and soldiers.
P. S. 14, § 130.
1882, 178.
1887, 411, § 127.
1891, 232, § 1.
1893, 367, § 127.
1898, 348, §§ 3, 4.
1900, 188, § 4.
2 Met. 296.
4 Gray, 601.

chief cook in person, during the tour of duty or day of duty for which he is returned for pay; otherwise the pay of other enlisted men of like grade; and every other enlisted man, two dollars. The commander-in-chief at his discretion may order rations to be issued to troops on duty, and the cost of the same shall be deducted from their pay. There shall be allowed for each horse actually used by officers and soldiers authorized to be mounted and for each draft horse used in the artillery, the sum of four dollars a day, which shall be in full for keeping and forage. For all other duty under orders of the commander-in-chief, unless otherwise specially provided, or as a witness or defendant under summons, as provided in section one hundred and sixty-three, there shall be allowed and paid per diem to all officers above the rank of captain, four dollars; to every other commissioned officer, two dollars and fifty cents; to every member of a band, four dollars and if with troops one dollar additional; and to every other enlisted man, two dollars. There shall be annually allowed and paid to each assistant adjutant general of brigade, twenty dollars; to each adjutant, fifty dollars; and to each paymaster, twelve dollars and fifty cents for each company in the command to which he is attached. There shall be allowed and paid to each chief bugler and bugler and drummer of the volunteer militia, for the duty required in sections one hundred and twenty, one hundred and twenty-one, one hundred and twenty-eight, one hundred and twenty-nine and one hundred and thirty-seven, three dollars and fifty cents a day.

Allowance for travel.
P. S. 14, § 131.
1887, 411, § 128.
1893, 367, § 128.

SECTION 151. There shall be allowed and paid to each officer and soldier required to travel on duty, as follows: under sections one hundred and twenty, one hundred and twenty-one, one hundred and twenty-eight, one hundred and twenty-nine and one hundred and thirty-seven, two cents a mile each way, computed by the most direct railroad communication from the place in which the headquarters of the various commands and the armories of the companies are situated, and when upon duty as a member or judge advocate of any military court or board, or as a witness or defendant before such court or board; when appearing before the board of examiners provided in section fifty-five, when attending meetings of officers, as provided in section one hundred and thirty-five; when acting as the presiding officer at an election, as an elector at the election of a general or field officer, or as a paymaster; or in any case when obliged by orders of the commander-in-chief to travel without troops, — four cents a mile each way, computed by most direct railroad communication from the residence of the officer or soldier.

— for care and responsibility for military property.
1884, 45.
1886, 63, § 3.
1889, 360, § 4.
1895, 465, § 8.
1898, 183.

There shall be annually allowed and paid for the care of and responsibility for military property of the commonwealth in their charge, to each cadet corps commander and each company commander fifty dollars; to each commander of a company of artillery, one hundred dollars; to each regimental commander and to each signal corps commander, twenty-five dollars; to the commander of the naval brigade, five hundred dollars, and to the ambulance corps commander, fifty dollars; from which the adjutant general may deduct the cost of all articles lost by neglect or losses unsatisfactorily explained, before certification to the auditor for payment. Inspecting officers when on duty in

armories, under orders of the commander-in-chief, shall receive the pay and allowances provided for officers on special duty.

What officers and soldiers to be mounted. P. S. 14, § 31. 1884, 230, § 5. 1887, 411, § 129. 1893, 367, § 129. 1897, 448, § 13. 1898, 348, § 4.

SECTION 152. The following, and none other, are entitled to be mounted: general, field and staff officers, officers of cavalry, artillery, signal and ambulance corps, brigade, cavalry and artillery non-commissioned staff officers, enlisted men of cavalry, and the sergeants, including the stable sergeant in each light battery but excluding other stable sergeants, the guidon corporal, the caisson corporals, the buglers of light artillery, the chief bugler and orderly of infantry regiments, one horse only being allowed to each. Batteries of light artillery shall be allowed eight draft horses for each gun. Horses shall not be allowed for members of bands except by special order of the commander-in-chief. Officers detailed as battalion adjutants of regiments shall be allowed a horse and equipments for orderly duty.

Allowance for transportation of horses. P. S. 14, § 132. 1887, 411, § 130. 1893, 367, § 130.

—only for transportation used. P. S. 14, § 133. 1887, 411, § 131.

SECTION 153. Mounted officers and men, when ordered by the commander-in-chief to transport their horses, shall be allowed the actual cost of such transportation from the point of departure nearest to the several headquarters or the armories of the companies to which they belong. No allowance shall be made for transportation not actually used nor to officers or men when transported by horses provided by the commonwealth. 1893, 367, § 131.

Transportation, forage and subsistence. P. S. 14, § 134. 1887, 411, § 132. 1893, 367, § 132.

SECTION 154. Forage and subsistence shall be furnished in kind by the quartermaster and commissary general, when troops are on duty under sections one hundred and twenty and one hundred and twenty-one, and when practicable, transportation shall be furnished in kind by the quartermaster general in lieu of money allowances.

Postage, stationery, repairs and incidentals. P. S. 14, § 135. 1887, 411, § 133. 1890, 425, § 11. 1893, 367, § 133; 439.

SECTION 155. There shall be annually allowed for postage, stationery and office incidentals: to each brigade headquarters, ten dollars for each regiment, battalion, unattached company and signal corps in each brigade; to each regimental and separate battalion headquarters, ten dollars for each company in such regiment or battalion; to each corps of cadets, twenty-five dollars; and to each company, signal and ambulance corps, ten dollars. There shall annually be allowed to each separate battalion headquarters, corps of cadets, company, signal and ambulance corps, an amount equal to one dollar and seventy-five cents for each enlisted man in each of such organizations, according to the average attendance at tours of duty, inspections and other ordered state duty, during the year ending with the first day of November, for repair of the uniforms and other property of the commonwealth, and incidental expenses of the several organizations.

Travel and attendance at courts-martial. P. S. 14, § 136. 1887, 411, § 134. 1893, 367, § 134.

SECTION 156. There shall be allowed to each person, not in the volunteer militia, appearing before courts of inquiry or courts-martial upon summons of the president or judge advocate thereof, one dollar and fifty cents for each day's attendance and four cents for each mile necessarily travelled in obedience to such summons.

Courts of Inquiry and Courts-martial.

Courts of inquiry.
P. S. 14, § 137.
1887, 411, § 135.
1893, 367, § 135.

SECTION 157. Courts of inquiry may be instituted by the commander-in-chief to investigate the conduct of any officer, either by his own application or on a complaint or charge of improper conduct, degrading to the character of an officer. Such court shall consist of not more than three officers, and may, with the approval of the commander-in-chief, require a judge advocate to attend it in taking testimony and investigating any complaint before it.

Report to, and action of, commander-in-chief.
P. S. 14, § 138.
1887, 411, § 136.
1893, 367, § 136.

SECTION 158. Such court shall without delay report a statement of facts and, when required, the evidence and its opinion thereon to the commander-in-chief who may, in his discretion, thereupon order a court-martial for the trial of the officer. 1897, 448, § 14.

General courts-martial for trial of commissioned officers.
P. S. 14, § 139.
1887, 411, § 137.
1893, 367, § 137.

SECTION 159. General courts-martial for the trial of commissioned officers shall be ordered by the commander-in-chief at such times as the interest of the service may require, and shall consist of not less than three nor more than seven officers, none of whom shall be of less rank than the accused.

Regimental courts-martial for trial of non-commissioned officers and privates.
P. S. 14, § 140.
1887, 411, § 138.
1893, 367, § 138.

SECTION 160. The commanding officer of each brigade shall, when necessary, appoint for the trial of non-commissioned officers, musicians and privates, a battalion or regimental court-martial for any regiment, battalion or unattached company in his brigade; and the commander-in-chief shall appoint courts-martial for the corps of cadets. It shall consist of one officer of the line whose rank is not below that of major; and unless otherwise directed by the commander-in-chief, shall be held at the armory of the company, or, in case of a non-commissioned staff officer, at the headquarters of the organization to which the accused belongs, and, subject to the approval of the officer ordering the court, may sentence the soldier tried to be reprimanded in company, corps, battalion or regimental orders, or, in case of a company non-commissioned officer, to be reduced to the ranks; and may, with the approval of the commander-in-chief, sentence him to be reprimanded in brigade orders or in orders from general headquarters, to be dishonorably discharged, or to be discharged and disqualified from holding office in the militia of the commonwealth.

Proceedings to conform to the militia regulations.
P. S. 14, § 141.
1887, 411, § 139.
1893, 367, § 139.

SECTION 161. Courts-martial shall in all respects conform to the regulations established for the government of the militia of the commonwealth; and the sentences thereof shall be in accordance with the nature and degree of the offence and according to established military usage, but shall not, in time of peace, extend further than dismissal or discharge, or disqualification from holding any office in the militia.

Report to, and action of, reviewing officer.
P. S. 14, § 142.
1887, 411, § 140.
1893, 367, § 140.

SECTION 162. The proceedings and sentence of every court-martial shall without delay be forwarded to the officer competent to review the same, who shall approve or disapprove thereof within fifteen days thereafter; but the reviewing officer may mitigate or commute such sentence. A roll of the officers of the court, of the persons accused or charged and of the witnesses appearing before it, with the residence and number of days' attendance of each, shall

constitute a part of the record of every court of inquiry or court-martial.

President and judge advocate may summon witnesses and administer oaths. P. S. 14, § 143. 1887, 411, § 141. 1893, 367, § 141.

SECTION 163. The president of every court-martial or court of inquiry, and also the judge advocate, may administer the usual oath to witnesses, and may issue summonses for the accused and the witnesses for the commonwealth, and also on application, for the witnesses for the officer or soldier accused or charged; and he may direct the commanding officer of any company to cause such summonses to be served on any member of his company, or may direct the commanding officer of any brigade, regiment, separate battalion or corps of cadets to serve such summonses on any commissioned or non-commissioned officer of his staff.

Penalty for failure to serve summons, non-appearance, etc. P. S. 14, § 144. 1887, 411, § 142. 1893, 367, § 142.

SECTION 164. An officer or soldier failing to serve such summons, and a witness failing without sufficient excuse to appear when summoned, shall be liable to trial by court-martial for disobedience of orders, or may be compelled to appear as in case of witnesses before special tribunals.

Offences of commissioned officers cognizable by court-martial. P. S. 14, § 145. 1887, 411, § 143. 1893, 367, § 143.

SECTION 165. Commissioned officers may be tried by court-martial, for the following offences: for unmilitary or unofficerlike conduct; drunkenness on duty; neglect of duty; disobedience of orders; acts contrary to the provisions of this chapter, or the regulations for the government of the militia; oppression or injury of any under his command; a combination or attempt or advice to another to break, resist or evade the laws or lawful orders; insulting a superior officer in the line of military duty; presuming to exercise his command while under arrest or suspension; neglect or refusal, when commanding officer, to order out his troops when required by law or ordered by his superior officer; neglect or refusal to make a draft or detachment when ordered; parading the troops under his command on election days contrary to law; receiving any fee or gratuity as a medical officer for a certificate of inability to do military duty; neglect, when detailed to train and discipline a company, to make complaint for neglect or violation of duty, or for any other neglect for which a commanding officer of the company would be liable; neglect or refusal to march or to make a draft, or for disobedience to an order in case of rebellion or insurrection; refusal or neglect to obey a precept or order to call out the militia or an order issued in obedience thereto, or for advising any officer or soldier to do the like; making a false certificate, account or muster; conduct unbecoming an officer and gentleman, or to the prejudice of good order and military discipline.

— of enlisted men cognizable by court-martial. 1881, 277, § 5. P. S. 14, § 146. 1887, 411, § 144. 1893, 367, § 144.

SECTION 166. Enlisted men may be tried by court-martial for the following offences: disobedience of orders, or an act contrary to the provisions of this chapter, the regulations for the government of the militia, or the by-laws of the organization to which he belongs, disrespect to his superior officers, mutiny, neglect of duty, or drunkenness on duty.

Limitation of prosecutions. P. S. 14, § 147. 1887, 411, § 145. 1893, 367, § 145.

SECTION 167. No officer or soldier shall be tried by court-martial for any offence unless committed within two years before the issuing of the order for such trial unless the accused has absented

himself from the commonwealth or for some other reason has not been amenable to justice within that period.

When in service to suppress riots, etc., articles of war to apply. P. S. 14, § 148. 1887, 411, § 146. 1893, 367, § 146.

SECTION 168. When any portion of the military forces of the commonwealth is ordered by the commander-in-chief to assemble for the purpose of suppressing a riot, insurrection, or invasion, or in time of public danger, the rules and articles of war and general regulations for the government of the army of the United States, so far as applicable and with such modifications as the commander-in-chief may prescribe, shall be in force and regarded as part hereof, during such service; but no punishment by death shall in any case be inflicted under such rules and articles, except in time of actual war, invasion or insurrection, declared by proclamation of the governor to exist, and then only after the approval of the sentence by the commander-in-chief.

Regimental, Battalion and Company By-laws.

By-laws of organizations may be adopted with approval of commander-in-chief. P. S. 14, § 149. 1887, 411, § 147. 1889, 360, § 5. 1893, 367, § 147.

SECTION 169. Companies, corps of cadets, separate battalions or regiments, may adopt by-laws not repugnant to law or to the regulations for the government of the militia, subject to the approval of the commander-in-chief, for the government of matters relating to the interior economy of their respective organizations, the regulation of fines for non-performance of duty, and of excuses therefrom. Such by-laws for unattached companies and signal corps shall be approved by brigade commanders; for the ambulance corps by the commander-in-chief; all others, by their respective regimental commanders or battalion commanders of light artillery and cavalry, the naval brigade and corps of cadets. The books of the treasurer and other books of any command shall, at any time, be examined by inspecting officers, on whose report they shall be subject to the action of the commander-in-chief. All organizations of the militia shall be supplied by the quartermaster general with a company fund book; and the commander-in-chief shall prescribe the manner of keeping and auditing the same.

Books, auditing, inspection, etc. 1889, 360, § 6.

Fines. Money charged to an officer. P. S. 14, § 150. 1884, 230, § 16. 1887, 411, § 148. 1893, 367, § 148. 1 Mass. 443. 4 Mass. 239, 376, 556, 670. 5 Mass. 406. 11 Mass. 456. 12 Mass. 271. 1 Pick. 463. 3 Pick. 263. 5 Pick. 189. 11 Pick. 355. 15 Pick. 170. 16 Pick. 84. 19 Pick. 376, 530. 21 Pick. 330. 23 Pick. 54, 208. 24 Pick. 172. 1 Met. 148.

SECTION 170. Fines fixed by such by-laws for the non-performance of duty, shall not exceed the following sums: for each day's absence from camp or annual drill, five dollars; for each day's absence from special duty, when ordered by the commander-in-chief, or from any parade ordered by the commanding officer of a regiment, battalion, corps of cadets, unattached company, signal or ambulance corps, three dollars; for each absence from company or battalion drill, or meeting of officers or non-commissioned officers ordered for the purpose of instruction, inspection, or from an election, one dollar. Money charged to an officer or soldier under the provisions of this chapter or such by-laws, may be recovered against him in an action of contract in the name of the officer commanding such organization at the time of bringing the action. The prevailing party shall have his costs without regard to the amount recovered. This remedy shall be in addition to those named in section one hundred and sixty.

GENERAL PROVISIONS.

SECTION 171. The commander-in-chief may make regulations for the government of the militia in accordance with law, and publish the same with a sufficient index. 1887, 411, § 149. 1893, 367, § 149.

Regulations for government of the militia. P. S. 14, § 151.

SECTION 172. The militia shall observe the system of discipline and field exercise ordered to be observed by the army of the United States, or such other system as may hereafter be directed by the laws of the United States. P. S. 14, § 152. 1887, 411, § 150. 1893, 367, § 150.

United States system of discipline, etc., to be observed by the militia.

SECTION 173. Members of the volunteer militia shall not be liable to jury duty; and any officer or soldier who has served continuously and faithfully for nine years in the volunteer militia shall be exempt for life from jury duty. 1893, 367, § 151.

Exemption from jury duty. P. S. 14, § 153. 1887, 411, § 151.

SECTION 174. No officer or soldier shall be arrested on civil process while going to, remaining at or returning from, a place where he is ordered to attend for election of officers or military duty. 1893, 367, § 152.

—from arrest on civil process. P. S. 14, § 154. 1887, 411, § 152.

SECTION 175. If an officer or soldier is wounded or otherwise disabled, or is killed or dies of wounds received while doing military duty according to law, in case of invasion, insurrection or disturbance of the peace, he, his widow or children, shall receive from the general court just and reasonable relief.

Relief for injuries received in service. P. S. 14, § 155. 1887, 411, § 153. 1893, 367, § 153.

SECTION 176. All military accounts unless otherwise provided by law shall annually, on or before the fifteenth day of December, be transmitted to the adjutant general and certified by him if correct, and then presented to the auditor of the commonwealth for allowance. 1893, 367, § 154.

Military accounts to be transmitted to adjutant general. P. S. 14, § 156. 1887, 411, § 154.

SECTION 177. Paymasters shall take proper vouchers in duplicate for all payments, and immediately after the payment of troops shall file with the treasurer and receiver general an account of their payments, with the duplicates of their vouchers; and such accounts shall be audited by the auditor of the commonwealth, and the several paymasters held to account for any discrepancies.

Paymasters to take vouchers and file in the treasury accounts of their payments. P. S. 14, § 157. 1887, 411, § 155. 1893, 367, § 155.

SECTION 178. Each paymaster shall give bond in the penal sum of ten thousand dollars, with at least two sureties, approved by the governor and council, conditioned faithfully to perform the duties of his office.

Paymasters' bonds. P. S. 14, § 158. 1887, 411, § 156. 1893, 367, § 156.

SECTION 179. Any officer to whom any public military property is at any time issued may be required to give bond, with two sureties, satisfactory to the governor and council, conditioned faithfully to perform the duties of his office; to use all necessary care in the safe keeping of military stores and property committed to his custody; to account for the same, and deliver over to his successor or to any other person authorized to receive the same all such military property.

Officers to whom military property is issued may be required to give bond. P. S. 14, § 159. 1887, 411, § 157. 1893, 367, § 157.

Rolls of officers and men to be forwarded to adjutant general, etc.
P. S. 14, § 160.
1887, 411, § 158.
1893, 367, § 158.
22 Pick. 406.
23 Pick. 54, 208.

SECTION 180. Rolls of the volunteer militia, showing the names of all general, field, staff and non-commissioned staff officers, and the names of all company officers and enlisted men in the service, shall be made on the first day of June in each year and shall be forwarded to the adjutant general within twenty days thereafter, those for companies shall be prepared by the respective company commanders and all others by direction of the commanding officers of the several organizations. A sworn copy of such rolls shall be furnished by the commanding officers of companies and such other organizations, to the registrars of voters of each city except Boston, in Boston to the election commissioners, or to the selectmen of the town in which such companies or organizations are located, for use in ascertaining exemptions from jury duty. The clerk of the ancient and honorable artillery company shall furnish annually, as provided herein, to the election commissioners of the city of Boston, sworn rolls of all active members belonging to the company.

Sworn copies to be furnished to city and town officers, etc.

Administration of oaths by officers.
P. S. 14, § 161.
1887, 411, § 159.
1893, 367, § 159.

SECTION 181. General and field officers, paymasters, the judge advocate general, and all judge advocates may administer the oaths required in this chapter, except as provided in sections fifty-five and fifty-six; and also oaths required by the regulations for the government of the militia.

Rights of the ancient and honorable artillery not affected.
P. S. 14, § 163.
1887, 411, § 161.
1893, 367, § 161.

SECTION 182. The provisions of this chapter shall not affect the right of the ancient and honorable artillery company to maintain its organization as a military company, according to ancient usage and to its constitution and by-laws, provided the same are not repugnant to the laws of this commonwealth or do not restrain the lawful parade or exercise of the active militia.

Troops not to leave the state without consent of commander-in-chief.
P. S. 14, § 167.
1887, 411, § 165.
1893, 367, § 165.

Penalty.

SECTION 183. No organization of the militia shall be ordered without the limits of the commonwealth, and no military organization shall leave the commonwealth, for any period or purpose whatever, with public military property in its possession, or use, without the consent of the commander-in-chief. Any organization disobeying the provisions of this section shall forthwith be disbanded by the commander-in-chief, and its officers and members be liable to trial by court-martial for disobedience of orders.

Militia in service of the United States to receive the pay of United States regular troops.
P. S. 14, § 168.
1887, 411, § 166.
1893, 367, § 166.

SECTION 184. The militia when in the service of the United States, if paid by the commonwealth, shall receive the same pay and allowances as the regular troops of the United States; and the rations when commuted shall be valued at the rate fixed by the regulations of the United States army in force at the time. When the militia are discharged from such service they shall be allowed pay and rations to their respective homes.

Penalty on civil officers for neglect or refusal to obey provisions of this chapter.
P. S. 14, § 165.

SECTION 185. Civil officers named in this chapter neglecting or refusing to obey its provisions shall, except as otherwise expressly provided, forfeit not less than twenty nor more than five hundred dollars for each offence. 1887, 411, § 163. 1893, 367, § 163.

TITLE V.

OF CERTAIN STATE OFFICERS AND THE CIVIL SERVICE.

CHAPTER 17. — Of Notaries Public and Commissioners.
CHAPTER 18. — General Provisions relative to State Officers.
CHAPTER 19. — Of the Civil Service.

CHAPTER 17.

OF NOTARIES PUBLIC AND COMMISSIONERS.

SECTIONS 1–4. — Notaries Public.
SECTIONS 5–7. — Special Commissioners.
SECTION 8. — Commissioners to Qualify Public Officers.
SECTIONS 9–12. — Commissioners in other States and Foreign Countries.

NOTARIES PUBLIC.

SECTION 1. Notaries public shall be appointed and their commissions shall be issued for the commonwealth. They shall have like power as justices of the peace to administer oaths, and take acknowledgments of deeds and other instruments, and may exercise their powers throughout the commonwealth.

Notaries public, appointment, etc. Amend. const., art. 4. 1851, 29. G. S. 14, § 34. 1867, 250.

P. S. 18, § 1. 1891, 38, §§ 1, 2. 145 Mass. 224.

SECTION 2. Upon the death, resignation or removal from office of a notary public, his records and official papers shall be deposited in the office of the clerk of the courts in the county in which he resided, or, if he resided in the county of Suffolk, in the office of the clerk of the superior court of said county for civil business. Said clerks shall safely keep such records and official papers, and shall make and certify copies thereof.

Deposit of their records, when. 1798, 62, §§ 1, 2. R. S. 13, §§ 47, 51, 52. G. S. 14, §§ 35, 39. P. S. 18, §§ 2, 6.

SECTION 3. A notary public who neglects for three months after his resignation or removal from office so to deposit his records and official papers, or the executor or administrator of a deceased notary public who neglects for three months after his acceptance of such office so to deposit such records and official papers of the deceased which come into his hands, shall forfeit not more than five hundred dollars.

Penalty for neglect to deposit records. 1798, 62, § 1. R. S. 13, §§ 48, 49. G. S. 14, §§ 36, 37. P. S. 18, §§ 3, 4.

SECTION 4. Whoever knowingly destroys, defaces or conceals the records or official papers of a notary public shall forfeit not more than one thousand dollars and be liable for damages to any person injured thereby.

— for destroying records. 1798, 62, § 1. R. S. 13, § 50. G. S. 14, § 38.

P. S. 18, § 5.

SPECIAL COMMISSIONERS.

Special commissioners.
1883, 252.
1889, 197.
1896, 476, § 1.
1898, 187; 574, § 1.
1899, 178, § 9.
150 Mass. 586.

SECTION 5. The governor, with the advice and consent of the council, may appoint women who are twenty-one years of age as special commissioners, for a term of seven years. Special commissioners shall have like power as justices of the peace to administer oaths, to take depositions, affidavits, acknowledgments of deeds and other instruments, to issue summonses for witnesses and to appoint appraisers in all cases. They shall be entitled to like fees as justices of the peace for like services.

Termination of appointment by change of name.
1896, 476, § 2.

SECTION 6. If the name of a special commissioner shall be changed, her commission shall terminate; but she may be re-appointed under her new name.

Termination of existing commissions.
1898, 574, § 1.

SECTION 7. The commission of every special commissioner appointed prior to the twenty-third day of June in the year eighteen hundred and ninety-eight shall terminate at the expiration of seven years therefrom.

COMMISSIONERS TO QUALIFY PUBLIC OFFICERS.

Commissioners to qualify public officers.
Res. 1780, 58.
R. S. 13, § 57.
G. S. 14, § 40.
1867, 138, § 4.
P. S. 18, §§ 7, 8.

SECTION 8. The governor, with the advice and consent of the council, shall appoint commissioners to administer to public officers the oaths of office required by the constitution. Such commissioners shall, upon administering such oaths, forthwith make return thereof, with the date of the same, to the secretary of the commonwealth.

COMMISSIONERS IN OTHER STATES AND FOREIGN COUNTRIES.

Commissioners in other states and countries.
1829, 125, § 1.
R. S. 13, § 53.
1854, 17, § 1.
1856, 253, § 1.
G. S. 14, §§ 41, 45.

SECTION 9. The governor, with the advice and consent of the council, may appoint commissioners in the states and territories of the United States, and one or more commissioners in every foreign country, who shall hold office for three years from the date of their respective appointments unless removed by the governor.

P. S. 18, §§ 9, 13. 1901, 149.

Oath, signature, seal.
1829, 125, § 2.
R. S. 13, § 56.
1854, 17, § 2.
1856, 253, § 4.
G. S. 14, §§ 42, 46.
1873, 11.
P. S. 18, §§ 10, 14.
1885, 31.

SECTION 10. A commissioner who is appointed for a state or territory of the United States shall, within three months after his appointment, take and subscribe an oath before a justice of the peace or other magistrate of the city or county where he resides, or before a clerk of a court of record within the state or territory where he resides, faithfully to perform the duties of his office, and shall cause an official seal to be prepared upon which shall appear his name, the words: — Commissioner for Massachusetts — and the name of the state or territory and city or county in which he resides. A commissioner who is appointed for a foreign country shall, before performing any duty of his office, take and subscribe an oath before a judge or clerk of a court of record of the country in which he resides or before an ambassador, minister or consul of the United States appointed to reside in such country, faithfully to perform the duties of his office. In each case, a certificate of the commissioner's oath of office and his signature and an impression of his official seal shall be forthwith transmitted to and filed in the office of the secretary of the commonwealth.

SECTION 11. A commissioner may, in the state, territory or country for which he is appointed, administer oaths and take depositions, affidavits and acknowledgments of deeds and other instruments, to be used or recorded in this commonwealth, and the proof of such deeds, if the grantor refuses to acknowledge the same; which shall be certified by him under his official seal.

Powers and duties.
1829, 125, § 1.
R. S. 13, §§ 53-55.
1854, 17, § 3.
1856, 253, §§ 1-3.
G. S. 14, §§ 43, 47.
P. S. 18, §§ 11, 15.

SECTION 12. The secretary shall prepare and forward to each commissioner instructions and forms in conformity to law, and a copy of the three preceding sections.

Instructions, etc.
1854, 17, § 4.
G. S. 14, § 44.
P. S. 18, § 12.

CHAPTER 18.

GENERAL PROVISIONS RELATIVE TO STATE OFFICERS.

SECTION 1. A public officer appointed by the governor, with the advice and consent of the council, shall, unless otherwise provided by law, hold his office during the term for which he is appointed and until his successor in office has been appointed and qualified.

Tenure of office.
1887, 364.

SECTION 2. A public officer, if appointed by the governor, may at any time be removed by him for cause, and, if appointed by him with the advice and consent of the council, may be removed with its advice and consent, unless some other mode of removal is provided by law.

Removal of officers.
1881, 57.
P. S. 21, § 1.
[1 Op. A. G. 140.]

SECTION 3. If a vacancy occurs during the recess of the general court in an office which is filled by an election by the general court and for which no other provision is made, the governor, with the advice and consent of the council, shall appoint a person to fill such vacancy, who shall hold office until the assembling of the general court and until another is chosen in his stead. Vacancies in boards or commissions consisting of more than one member may be filled for the residue of the unexpired term in the mode provided for an original appointment, and in offices filled by a sole officer, for the full term.

Filling of vacancies.
1860, 216.
P. S. 21, § 2.

SECTION 4. A state board and commission shall, upon organizing, report its organization to the secretary of the commonwealth.

Organization of state boards.
1898, 265.

SECTION 5. A state board and commission which is charged with the expenditure of money shall, in its annual report, give a detailed and itemized account of all money then due from said board or commission and unpaid, and a like statement of all claims against it, giving the name of the claimant and the nature and amount of the claim.

Accounts of state boards, etc.
1898, 366.

SECTION 6. State boards and commissions shall annually, on or before the first Wednesday in January, deposit with the secretary of the commonwealth such parts of their annual reports which are

Recommendations for legislation.
1893, 144.

required to be made to the governor and council or to the general court as contain recommendations or suggestions for legislative action: and the secretary shall forthwith transmit them to the governor and council or to the general court.

Oaths of office.
Res. 1780, 58.
R. S. 13, § 57.
G. S. 14, § 40.
P. S. 21, § 3.

SECTION 7. A person chosen or appointed to an office may, unless otherwise provided by law, take and subscribe the oaths required to qualify him before the governor, lieutenant governor, two councillors or two commissioners appointed under the provisions of section eight of chapter seventeen.

Failure to qualify.
1862, 109, §§ 1, 2, 5.
1867, 138, §§ 1, 2, 5.
P. S. 21, §§ 4, 5.

SECTION 8. A person appointed to an office by the governor shall be notified of his appointment by the secretary of the commonwealth and his commission delivered to him, and if he does not, within three months after the date of such appointment, take and subscribe the oaths of office, his appointment shall be void, and the secretary shall forthwith notify him thereof and require him to return his commission, and shall also certify said facts to the governor. This section shall be printed on every such commission.

Fee for commissions.
1862, 109, § 1; 176, § 18.
1877, 211, § 8.
P. S. 21, § 6.
1898, 574, § 2.
1901, 149.

SECTION 9. Before the delivery of a commission to a person appointed commissioner under the provisions of section nine of chapter seventeen or to qualify public officers, notary public, master in chancery, justice of the peace, special commissioner or pilot, he or she shall pay to the secretary of the commonwealth a fee of five dollars.

Commission not to issue, until.
1881, 56.
P. S. 21, § 7.

SECTION 10. If a bond is required of any person appointed to office by the governor or by the governor and council, the commission shall not issue until the bond has been approved.

Double salaries forbidden.
G. S. 15, § 36.
P. S. 21, § 8.

SECTION 11. A person shall not at the same time receive more than one salary from the treasury of the commonwealth.

Penalty for holding office in violation of law.
1880, 180.
P. S. 21, § 9.

SECTION 12. Whoever wilfully violates the provisions of the preceding section, or wilfully accepts or holds office in violation of article two of chapter six of the second part of the constitution, shall forfeit to the commonwealth the compensation from all such offices during the time in which he has held more than one office in violation of law; to be recovered by the attorney general, upon written complaint made within one year by any citizen.

Office hours of state departments.
1866, 67.
1879, 236.
1881, 42.
P. S. 21, § 10.
1886, 257.
1896, 522.

SECTION 13. The offices of all the departments of the state government shall be open to the public for the transaction of business daily, except on Sundays and legal holidays, from nine o'clock in the forenoon until five o'clock in the afternoon, except on Saturdays, when they may be closed at two o'clock in the afternoon. The treasurer and receiver general shall not be required to keep his office open for the receipt or payment of money later than two o'clock in the afternoon, nor on Saturdays later than twelve o'clock noon.

Holidays of employees.
1898, 367, §§ 1, 2.

SECTION 14. The heads of departments of the commonwealth may in their discretion provide that the persons employed in their

respective departments shall be allowed one half holiday in each week without loss of pay during such portions of the year as said heads of departments may determine.

SECTION 15. No person employed in any department shall receive for his own use any fee for copying public records or documents, or for other services during office hours, but all fees therefor shall be paid into the treasury of the commonwealth. Whoever violates the provisions of this section shall be disqualified for employment in any department of the state government.

Employees not to receive fees. 1865, 259, § 3. P. S. 21, § 11.

SECTION 16. Every court, public officer or board, except the governor and council, required to approve a bond for the faithful performance of the duties of any office, occupation, agency or trust which is in the custody of the treasurer and receiver general shall annually in March, and at any other time if there is reason to believe that such bond has become insufficient, examine into the sufficiency thereof, and shall within thirty days after such examination report thereon to the governor and council. The governor shall appoint a committee of the council which shall annually in March make such examination of bonds which are required to be approved by the governor or by the governor and council. If a bond is found upon such examination to be insufficient, the person or persons who have examined it shall forthwith notify the obligor thereof and shall require him, within thirty days after the date of such notice, to file a new bond in conformity with law such as is required before entering upon the performance of the duties of such office, occupation, agency or trust.

Examination of official bonds. 1885, 32, §§ 1, 2.

SECTION 17. If a new bond is not filed, as required, the governor with the advice and consent of the council shall remove the obligor from office or trust or terminate his authority to exercise such occupation or agency.

Obligor failing to give new bond to be removed. 1885, 32, § 3.

SECTION 18. Bonds of public officers, except county treasurers and officers in the county of Suffolk, required to be deposited with county treasurers shall, at least once a year, be examined by the controller of county accounts or by one of his deputies. If such bond is insufficient, he shall report to the superior court, which shall require a new bond, satisfactory to the court, within such time as it shall order.

Examination of bonds of county officers. 1893, 257.

CHAPTER 19.

OF THE CIVIL SERVICE.

SECTIONS 1–5. — Civil Service Commission and Officers.
SECTIONS 6–9. — Rules.
SECTIONS 10, 11. — Special Provisions applicable to Boston.
SECTION 12. — Applications.
SECTIONS 13–15. — Examinations and Lists.
SECTIONS 16–19. — Appointments.
SECTIONS 20–25. — Veterans' Preference.
SECTIONS 26–33. — Corrupt Practices.
SECTIONS 34–37. — General Provisions.

CIVIL SERVICE COMMISSION AND OFFICERS.

Civil service commission.
1884, 320, § 1.
138 Mass. 603.

SECTION 1. The governor shall annually, in May or June, with the advice and consent of the council, appoint a civil service commissioner for a term of three years from the first Monday of July following. All appointments shall be so made that not more than two commissioners shall at the time of any appointment be members of the same political party. Each commissioner shall be paid five dollars for each day's service and his travelling and other expenses incurred in the performance of his official duties.

Chief examiner, secretary, etc.
1884, 320, § 20.
1888, 41.
1889, 177, 351.
1895, 376.
[1 Op. A. G. 382.]

SECTION 2. The commissioners may appoint a chief examiner, who, under their direction, shall superintend any examination held under the provisions of this chapter and perform such other duties as they may prescribe. He shall receive an annual salary of three thousand dollars, and travelling expenses incurred in the performance of his official duties. They may appoint a secretary who shall receive an annual salary of two thousand dollars. They may appoint a registrar of labor, who shall, under their direction, supervise the administration of civil service rules applicable to the public labor service of the commonwealth or of any city thereof. He shall receive an annual salary of two thousand dollars, and his travelling expenses. They may incur other expenses not exceeding the annual appropriation therefor.

Witnesses and testimony.
1891, 140.

SECTION 3. The commissioners or any of them, in an investigation by them, may summon witnesses, administer oaths and take testimony. The fees of such witnesses shall be the same as for witnesses before the superior court, and shall be paid from the appropriation for the incidental expenses of the commissioners.

Examiners.
1884, 320, § 20.

SECTION 4. They may designate persons in the official service of the commonwealth or of any city or of any town wherein this chapter is in force, who shall, with the consent of the head of department or office in which any such person serves, act as examiners of applicants for public employment. But no person shall serve as such examiner when any relative or connection by marriage, within the degree of first cousin, shall be an applicant.

SECTION 5. They shall keep records of their proceedings and of examinations made by them or under their authority. Recommendations of applicants received by them or by any officer authorized to make appointments or to employ laborers or others, within the scope of such rules, shall be preserved. Such records and recommendations shall, under regulations approved by the governor and council, be open to public inspection. The commissioners shall from time to time suggest to the general court appropriate legislation for the administration and improvement of the civil service and shall annually before the tenth day of January make a report which shall contain any rules adopted under the provisions of this chapter.

Records and annual report. 1884, 320, §§ 2, 23.

RULES.

SECTION 6. The commissioners shall from time to time prepare rules regulating the selection of persons to fill appointive positions in the government of the commonwealth and of the several cities thereof and the selection of persons to be employed as laborers or otherwise in the service of the commonwealth and said several cities, and altering, rescinding, amending or adding to the rules now established. Such rules may be of general or limited application and shall take effect only when approved by the governor and council.

Rules. 1884, 320, § 2. 143 Mass. 589. 145 Mass. 587, 589.

SECTION 7. The rules heretofore prepared by the commissioners and now in force shall continue in force, and such rules and those hereafter prepared by them and approved by the governor and council, shall be administered by the commissioners. They shall not be inconsistent with law, may be of general or limited application and shall include provisions for: —

The classification of the positions and employments to be filled.

Open competitive and other examinations to test the practical fitness of applicants.

The filling of vacancies in and the selection of persons for public positions and employments in accordance with the results of such examinations, or in the order of application, or otherwise.

Promotions, if practicable, on the basis of ascertained merit in the examination and seniority of service.

A period of probation before an appointment or employment is made permanent.

Preference to veterans in appointment and promotion.

Application of rules. 1884, 320, § 14. 1895, 501, § 1. 1896, 517, § 8. 138 Mass. 603. 145 Mass. 590.

SECTION 8. Changes in the rules shall forthwith, when approved, be printed for distribution, and a certified copy thereof sent to the mayor of each city and the selectmen of each town to which such changes relate, and shall be published in one or more newspapers. In such publication the date when such changes shall take effect shall be specified, which date shall be not less than sixty days subsequent to the date of such publication.

Printing and distribution of rules. 1884, 320, § 19. 1888, 253.

SECTION 9. Judicial officers and officers elected by the people or by a city council, or whose appointment is subject to confirmation by the executive council or city council of any city, officers elected by either branch of the general court and the appointees

Officers not affected. 1884, 320, § 15. 1893, 95. 1896, 502. [1 Op. A. G. 72, 194.]

of such officers, heads of principal departments of the commonwealth or of a city, the employees of the treasurer and receiver general, of the board of commissioners of savings banks, and of the treasurer and collector of taxes of any city, two employees of the city clerk of any city, teachers of the public schools, the secretaries and confidential stenographers of the governor, or of the mayor of any city, police and fire commissioners and chief marshals, or chiefs of police and fire departments, shall not be affected as to their selection or appointment by any rules made as aforesaid; but, with the above exception, such rules shall apply to members of police and fire departments.

SPECIAL PROVISIONS APPLICABLE TO BOSTON.

Classification of janitors, etc., in charge of steam boilers in school buildings in Boston. 1889, 352. 1893, 253.

SECTION 10. Engineers, janitors and all persons having charge of steam boilers and furnaces in the school buildings in the city of Boston, and truant officers appointed by the school committee of said city, shall be classified and appointed pursuant to this chapter and the rules thereunder.

Qualifications of firemen in Boston. Placing on list for permanent appointment. 1896, 256, 424.

SECTION 11. Persons five feet five inches in height or over, if otherwise qualified, shall be eligible to appointment in the fire department of the city of Boston. Call members in said department who have served three or more successive years shall, upon application to the civil service commissioners, be placed upon the eligible list for appointment as permanent men without further examination, and may at the discretion of the fire commissioner be appointed at the same salary as permanent men who have served three or more years in said service.

APPLICATIONS.

Statements of applicants for examination. 1884, 320, § 17. 1889, 183. 145 Mass. 587, 589.

SECTION 12. Every application shall state under oath the full name, residence and post office address, citizenship, age, place of birth, health and physical capacity, right of preference as a veteran, previous employment in the public service, business or employment and residence for the previous five years, and education of the applicant, and such other information as may reasonably be required relative to his fitness for the public service.

Application for registry in labor service. 1897, 328.

Applicants for positions in the labor service of the commonwealth or of the cities thereof shall, to the number of five hundred, be allowed to register on the first Monday of February, May, August and November in each year, at the places appointed therefor.

EXAMINATIONS AND LISTS.

Scope of examination. 1884, 320, § 16.

SECTION 13. No question in any examination shall relate to, and no appointment to a position or selection for employment shall be affected by, political or religious opinions or affiliations. Examinations shall be practical and shall relate to matters which will fairly test the capacity and fitness of the applicants. The examination of applicants for employment as laborers shall relate to their capacity for labor and habits of sobriety and industry and to the necessities of themselves and their families.

SECTION 14. No person in the public service shall wilfully and corruptly defeat, deceive or obstruct any person as to his right of examination; or wilfully or corruptly make a false mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or wilfully or corruptly make any false representation concerning the same or concerning the person examined; or wilfully or corruptly furnish to a person special or secret information, for the purpose of improving or injuring the prospects or chances of appointment, employment or promotion of any person so examined or to be examined.

Obstruction of right of examination forbidden. 1884, 320, § 18.

SECTION 15. The commissioners, within five days after the results of an examination have been ascertained, shall prepare a list of the applicants who have passed the examination, with the standing of each; and, within five days after certification of persons for appointment or employment, prepare a list of the persons so certified which shall be open to public inspection.

Lists of names of successful applicants. 1895, 501, § 4. 1896, 517, § 4.

APPOINTMENTS.

SECTION 16. No person habitually using intoxicating liquors to excess and no vendor of intoxicating liquors shall be appointed to or retained in any office, appointment or employment to which the provisions of this chapter apply.

Vendor or user of liquor ineligible. 1884, 320, § 3.

SECTION 17. No person shall be appointed to or employed in any office to which the provisions of this chapter apply within one year after his conviction of any crime against the laws of this commonwealth.

Convicts ineligible for one year. 1884, 320, § 4. 1888, 334. [1 Op. A. G. 243.]

SECTION 18. No recommendation of an applicant for a position or employment under the provisions of this chapter given by any member of the general court, alderman or councilman, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making the appointment under this chapter.

Recommendations of public officers restricted. 1884, 320, § 5.

SECTION 19. The name and residence of every person, except laborers, appointed to, promoted or employed in a position coming within the rules governing the civil service, the designation of such position and the rejection or discharge of every such person, shall forthwith be reported to the commissioners by the officer making such appointment, promotion, rejection or discharge, or providing such employment.

Name, etc., of appointees to be reported to commissioners. 1884, 320, § 22.

VETERANS' PREFERENCE.

SECTION 20. The word "veteran" in this chapter shall mean a person who served in the army or navy of the United States in the war of the rebellion and was honorably discharged therefrom, or a citizen of this commonwealth who distinguished himself by gallant and heroic conduct while serving in the army or navy of the United States and has received a medal of honor from the president of the United States.

Definition of "veteran." 1896, 517, §§ 1, 6.

Application of veterans for examination.
1887, 437.
1889, 473.
1895, 501, §§ 1–3, 6.
1896, 517, § 2.
145 Mass. 587.
166 Mass. 14, 589.
[1 Op. A. G. 243, 340.]

SECTION 21. A veteran may apply for examination under the rules, and if he passes the examination, shall be preferred in appointment and employment to all persons not veterans. The commissioners shall cause the names of the veterans who pass the examination to be placed upon the eligible list in the order of their respective standing, above the names of all other applicants, and to be certified to the appointing officers for appointment and employment in preference to other applicants, and the appointment or employment shall be made from the list so certified. But nothing herein shall prevent the certification and employment of women.

— for employment.
1896, 517, § 3.
166 Mass. 589.

SECTION 22. A veteran may apply for appointment to or for employment in the classified public service without examination. In such application, he shall state under oath the facts required by the rules. Age, loss of limb or other disability which does not in fact incapacitate shall not disqualify him for appointment or employment under the provisions of this section. Appointing officers may make requisition for the names of any or all such veterans and appoint or employ any of them.

Removal of veteran only after hearing.
1894, 519.
1896, 517, § 5.
1901, 339.
175 Mass. 489.

SECTION 23. No veteran who holds an office or employment in the public service of the commonwealth, or of any city or town therein, shall be removed or suspended, or shall, without his consent, be transferred from such office or employment, nor shall his office be abolished, except after a full hearing of which he shall have at least seventy-two hours' written notice, with a statement of the reasons for the contemplated removal, suspension, transfer or abolition. The hearing shall be before the state board of conciliation and arbitration, if the veteran is a state employee, or before the mayor of the city or selectmen of the town of which he is an employee, and the veteran shall have the right to be present and to be represented by counsel. Such removal, suspension or transfer, or such abolition of an office, shall be made only upon a written order stating fully and specifically the cause or causes therefor, and signed by said board, mayor or selectmen, after a hearing as aforesaid.

Rules for veterans.
1896, 517, § 6.
166 Mass. 589.
170 Mass. 58.

SECTION 24. The rules shall provide for the employment of veterans in the labor service of the commonwealth and of the cities and towns thereof, in the class for which they make application, in preference to all other persons except women. If the appointing officer certifies in his requisition for laborers that the work to be performed requires young and vigorous men, and, upon investigation, the commissioners are satisfied that such certificate is true, they may fix a limit of age and certify only those whose age falls within such limit. In cities and towns in which the provisions of this chapter and the rules governing the civil service have not been applied to the labor service, the selectmen and the city councils shall take any necessary action to secure the employment of veterans in the labor service of their respective cities and towns in preference to all other persons except women.

Reinstatement of certain persons.
1898, 454.

SECTION 25. Any person in the classified public service of the commonwealth or of any city or town thereof who resigns such office or leaves such service for the purpose of enlisting and serv-

ing in the army or navy of the United States or in the militia of this commonwealth in time of war and so enlists and serves, may at any time within one year after his honorable discharge from such military or naval service be appointed to or employed in his former or a similar position or employment, without application or examination.

CORRUPT PRACTICES.

Public officers not to solicit contributions for political purposes. 1884, 320, § 6.

SECTION 26. No councillor, member of the general court, alderman or councilman, or any officer or employee of any of said bodies, and no executive or judicial officer of the commonwealth, no clerk or employee of any department or branch of the government of the commonwealth and no executive officer, clerk or employee of any department of a city shall personally solicit or receive, directly or indirectly, or be concerned in soliciting or receiving, any assessment, subscription or contribution for any political purpose whatever; but this shall not forbid such persons to be members of political organizations or committees.

Solicitations forbidden in official buildings. 1884, 320, § 7.

SECTION 27. No person shall solicit in any manner whatever or receive any contribution of money or other thing of value for any political purpose whatever in a room or building occupied for the performance of official duties by an officer or employee of the commonwealth or of any city herein.

Public officers, etc., not to be affected by refusal to contribute. 1884, 320, § 8. 142 Mass. 90, 95.

SECTION 28. No officer or employee of the commonwealth or of any city or town wherein this chapter is in force, shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose.

Gifts for political object forbidden. 1884, 320, § 9.

SECTION 29. No officer, clerk or other person in the service of the commonwealth or of any city or town wherein this chapter is in force shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Coercion of political action forbidden. 1884, 320, § 10.

SECTION 30. No person in the service of the commonwealth or of any city or town wherein this chapter is in force shall use his official authority or influence to coerce the political action of any person or body, or to interfere with any election.

Public officers, etc., not required to contribute to political fund. 1884, 320, § 11. 142 Mass. 90, 95.

SECTION 31. No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so.

Corrupt methods of procuring nominations, etc., prohibited. 1884, 320, § 12.

SECTION 32. No person holding a public office or in nomination for, or seeking a nomination for, or appointment to, an office, shall corruptly use or promise to use, directly or indirectly, any official authority or influence to confer upon any person, or to aid a

person to obtain, an office or public employment, or a nomination, confirmation, promotion or increase of salary, upon the consideration or condition that the vote, political influence or action of any person shall be given or used in behalf of a candidate, officer or party, or upon any other corrupt condition or consideration.

Refreshments at public expense regulated.
1884, 320, § 13.

SECTION 33. No city shall pay a bill incurred by any official thereof for wines, liquors or cigars; nor shall a city pay a bill for refreshments furnished to an official of said city if the amount for any one day exceeds one dollar for each member of the government of said city who certifies over his own signature to the correctness of the bill.

GENERAL PROVISIONS.

Enforcement of rules.
1901, 512.

SECTION 34. If, in the opinion of the civil service commissioners, a person is appointed or employed in the public service classified under civil service rules in violation of any of such rules, the commissioners shall, after written notice mailed to the appointing or employing officer or officers and to such person, notify in writing the treasurer, auditor or other disbursing officer of the commonwealth, city or town in whose service such person is so employed, and the payment of any compensation to such person shall be illegal and shall cease at the expiration of one week after the mailing of the latter notice, until the legality of such appointment or employment is duly established. The attorney general may, within thirty days after said notice to such treasurer, auditor or other disbursing officer, file in the superior court, sitting in equity for the county in which such appointee or employee was appointed or employed, an information in the nature of a quo warranto against such appointee or employee, and the superior court or any justice thereof shall have jurisdiction to hear and determine the same. At any time after the beginning of such proceedings the court may, if it is of opinion that there is reasonable doubt whether the employment of such person is in violation of such rules, order that the compensation accruing to the person notified shall be paid to him until otherwise ordered by said court. If the attorney general shall fail within said thirty days to file such information, the said notice shall be regarded as null and void.

Penalties.
1884, 320, § 24.
1895, 501, § 5.
1896, 517, § 7.
143 Mass. 589.

SECTION 35. Whoever makes an appointment to office or selects a person for employment contrary to, or wilfully refuses or otherwise neglects to comply with, the provisions of this chapter or of any rule hereunder shall, unless some other penalty is specifically provided, be punished by a fine of not less than one hundred nor more than one thousand dollars for each offence.

Application of chapter.
1894, 267.
1896, 449.

SECTION 36. This chapter shall be in force in any town of more than twelve thousand inhabitants when accepted by it. So much of this chapter and the rules established under it as relate to the employment of laborers, designated as the "Labor Service," shall not be in force in any city of less than one hundred thousand inhabitants until the city council, with the approval of the mayor, accepts the same.

SECTION 37. In a town which by a vote of a majority of the voters voting thereon at an annual or special town meeting accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the provisions of this chapter and the rules made under the authority thereof which relate to the police and fire forces of cities except Boston shall apply to all members of the regular or permanent police and fire forces, or to the call fire force, or to either of said forces, of a town. Such vote may limit the application of the provisions of this chapter and of the rules made thereunder either to the police force or to the fire force of such town, or it may extend such application to both of said forces. Upon such vote of acceptance, each member of the force or forces included therein and within the classified civil service shall continue to hold his office until his death, resignation or removal. He shall not be removed except for cause shown after a full hearing before the board or officer of the town having power to make removals, and such member shall have the right to be present at such hearing and to be represented by counsel.

Application to fire and police forces in towns. 1901, 78.

TITLE VI.

OF COUNTIES AND COUNTY OFFICERS.

CHAPTER 20. — Of Counties and County Commissioners.
CHAPTER 21. — Of County Treasurers, the Controller of County Accounts and County Finances.
CHAPTER 22. — Of Registers of Deeds.
CHAPTER 23. — Of Sheriffs.
CHAPTER 24. — Of Medical Examiners.

CHAPTER 20.

OF COUNTIES AND COUNTY COMMISSIONERS.

SECTIONS 1–11. — Counties.
SECTIONS 12–36. — County Commissioners.

COUNTIES.

Boundaries and powers. Mass. records, 1643, vol. 2, p. 38; 1662, vol. 4, part 2, p. 52. Plymouth records, 1685. 1692–3, 27. 1695–6, 7. 1730–31, 8. 1760–61, 33. 1792, 72. 1803, 14.

SECTION 1. The boundary line of counties bordering on the sea shall coincide with the line of the commonwealth as defined in section three of chapter one. Each county shall continue a body politic and corporate for the following purposes: to sue and be sued, to purchase and hold, for the use of the county, personal estate and land lying within its limits, and to make necessary contracts and do necessary acts relative to its property and affairs.

1811, 61, 137, 141. R. S. 14, §§ 1, 45. G. S. 1, § 1; 17, § 1. P. S. 22, § 1. 121 Mass. 380. 152 Mass. 234. 153 Mass. 142. 139 U. S. 240.

County maps. 1846, 241, § 2. 1853, 325, § 1. G. S. 17, § 7. P. S. 22, § 9.

SECTION 2. County commissioners shall cause changes in the boundaries of cities and towns, in the courses of highways, railroads and canals, and other topographical alterations to be correctly delineated on the county maps, which shall remain in their possession.

Same subject. 1846, 241, § 3. 1853, 325, § 2. G. S. 17, § 8. P. S. 22, § 10.

SECTION 3. The secretary of the commonwealth shall, as often as necessary, transmit the manuscript county maps in his office to the respective county commissioners, who shall cause a competent engineer or surveyor under their direction to transfer thereto all changes and alterations described in the preceding section, and shall, within two months after receiving them, return such maps to the secretary, who shall immediately cause the alterations to be delineated on the plates of the state map.

SECTION 4. The county commissioners in each county may sell any of its real estate, and a deed made and acknowledged by them under the seal of the county shall convey the interest of the county therein. 153 Mass. 142.

Sale of county land.
1811, 75, § 3.
R. S. 14, § 8.
G. S. 17, § 4.
P. S. 22, § 4.

SECTION 5. Each county except Suffolk shall provide suitable court houses, jails, houses of correction, fire proof offices and other necessary public buildings for the use of the county; but the county of Dukes County need not provide a house of correction.
R. S. 14, § 9. G. S. 17, § 5. P. S. 22, § 5. 116 Mass. 193. 121 Mass. 381. 163 Mass. 37.

Counties to provide public buildings.
C. L. 127, § 2.
1700-1, 2, § 10.
1784, 41, § 1.
1811, 8, § 6.
1834, 151, § 1.

SECTION 6. Each county shall, at its own expense, provide suitable accommodations for district and police courts in the cities and towns in which they are required to be held, and may erect or hire suitable buildings or rooms and furnish the same, provide for the heating and care thereof and do all other things incidental thereto.

Same subject.
1890, 440, § 11.
1891, 70.
1893, 396, § 1.
1897, 245.
166 Mass. 305.

SECTION 7. The city of Boston shall provide the public buildings necessary for the use of the county of Suffolk and pay all county charges, except as hereinafter provided. P. S. 22, § 6. 163 Mass. 37.

Special provision for Suffolk county.
R. S. 4, § 10.
G. S. 17, § 6.

SECTION 8. No part of any expense incurred by the laying out, widening, alteration, discontinuance, building or repair of a highway, bridge or other way of travel in the towns of Revere and Winthrop shall be assessed upon the county of Suffolk or the cities of Boston or Chelsea, and no part of any such expense, except for Chelsea bridge, incurred in the city of Chelsea shall be assessed upon the county of Suffolk or the city of Boston.

Expenses of certain highways, etc., in Suffolk county.
1872, 91.
P. S. 22, § 7.

SECTION 9. The city of Chelsea shall maintain and repair that portion of Chelsea bridge over Mystic River lying northeast of the northeasterly draw therein; and the city of Boston, that portion lying southwest of said draw. The draw and the draw piers shall be maintained and repaired equally by said cities. Each city shall be liable for damages resulting from defects in the portion of said bridge which it is required to maintain and repair.

Maintenance of Chelsea bridge.
1878, 41.
P. S. 22, § 8.

SECTION 10. The jurisdiction of counties separated by waters within the jurisdiction of the commonwealth shall be concurrent over such waters. P. S. 22, § 11. 152 Mass. 234.

Jurisdiction over waters.
1859, 289.
G. S. 1, § 1.

SECTION 11. The courts in the county of Suffolk, concurrently with the courts of the other counties in which parts of the territory hereinafter described are situated, shall have jurisdiction of all crimes committed in any portion of the town of Hull, or in that portion of the town of Hingham which lies within a line beginning at the tide-gate under the bridge on Otis street and thence running in a straight course to the corner of Lincoln street and Downer avenue, thence by said Lincoln street to the line of the town of Weymouth, and thence by the shore to the point of beginning; and also of those committed on the islands or waters in Boston harbor which lie northerly of a line drawn westwardly from the most easterly point of Point Allerton through the most northerly point of Moon Island to the channel of Neponset River, and westerly of a line

Concurrent jurisdiction.
1858, 135.
G. S. 17, § 10.
1863, 177.
1864, 50.
1876, 8.
1880, 168, §§ 1, 2.
P. S. 22, § 12.

drawn from Point Allerton to the easternmost point of the Outer Brewster Island, and from thence to Short Beach at the line dividing the towns of Revere and Winthrop, as if said town of Hull, said portion of the town of Hingham and said islands and waters were within the limits of said county of Suffolk. An officer qualified to serve criminal process in the city of Boston may serve such process or make arrests in all cases in which the courts in the county of Suffolk have jurisdiction under this section.

COUNTY COMMISSIONERS.

Number of county commissioners.

SECTION 12. There shall be three county commissioners in each county except the counties of Suffolk and Nantucket.

1835, 152, § 2. R. S. 14, § 16. G. S. 10, § 6. P. S. 10, § 6. 1890, 423, § 193. 1893, 417, § 255. 1898, 217, § 2.

County commissioners to be sworn, etc. 1835, 152, § 4. 1854, 77, § 4. R. S. 14, §§ 24, 25.

SECTION 13. County commissioners before entering upon their duties shall be sworn, and shall annually, at their first meeting after the first Wednesday of January, choose by ballot a chairman of their board. G. S. 17, § 11. P. S. 22, § 13.

Salaries. 1827, 77, § 10. 1835, 152, § 4. R. S. 84, § 4. 1859, 163. G. S. 17, § 29. 1860, 185. 1864, 280, § 1. 1867, 340. 1879, 295. 1881, 158. P. S. 22, § 14. 1885, 277. 1893, 273. 1894, 250. 1895, 112. 1898, 316. 1900, 198.

SECTION 14. Commissioners and associate commissioners shall receive from the county, in full payment for all their services, the following annual salaries: associate commissioners not less than five dollars each for every day of actual service, to an amount not exceeding one hundred and fifty dollars in any county in any calendar year, and ten cents a mile travel each way, and the balance of the annual salaries shall be divided among the county commissioners in proportion to the services rendered by each; and no other or additional compensation shall be paid to them for any service performed by them for their respective counties.

117 Mass. 433. 140 Mass. 60. [1 Op. A. G. 197.]

1893, 276. For the county of Barnstable, thirteen hundred dollars.

1890, 133. For the county of Berkshire, twenty-one hundred dollars.

1886, 251. 1889, 339. For the county of Bristol, thirty-three hundred dollars. 1893, 291.

1872, 151. For the county of Dukes County, four hundred dollars.

1885, 277. 1892, 354. For the county of Essex, forty-five hundred dollars.

1888, 65. For the county of Franklin, sixteen hundred dollars.

1889, 30. For the county of Hampden, twenty-five hundred dollars.

1871, 236. 1887, 211. For the county of Hampshire, sixteen hundred dollars.

1885, 277. For the county of Middlesex, fifty-four hundred dollars. 1889, 303.

1885, 277. 1891, 80. For the county of Norfolk, forty-two hundred dollars. 1892, 399.

1886, 251. 1892, 298. For the county of Plymouth, twenty-seven hundred dollars.

1886, 251. 1891, 79. 1893, 288. For the county of Worcester, forty-nine hundred and fifty dollars.

An itemized statement of the actual and proper expenses of the commissioners for transportation shall, on the first day of each month, be certified to the controller of county accounts, who shall audit and certify it to the county treasurer, who shall pay such expenses from the county treasury.

Compensation during a vacancy in office. 1893, 275, § 1.

SECTION 15. During a vacancy in a board, the county treasurer shall not pay to the two remaining commissioners more than two-thirds of the salary fixed by law for the whole board.

SECTION 16. The commissioners shall hold meetings at the following times and places for the respective counties in which such places are situated: — Times of regular meetings. 1818, 120. 1827, 77, § 3. R. S. 84, § 6.

G. S. 17, § 31. 1867, 341. 1868, 325, § 3. P. S. 22, § 15.

At Barnstable, on the second Tuesday of April and October. 1823, 145.

At Pittsfield, on the first Tuesday of January, April, July and October. 1837, 146. 1840, 77. 1860, 3. 1883, 63.

At Taunton, on the fourth Tuesday of March and September.

At Edgartown, on the Wednesday next after the third Monday of May and the Wednesday next after the second Monday of November. 1820, 41.

At Ipswich, on the second Tuesday of April; at Salem, on the second Tuesday of July; at Newburyport, on the second Tuesday of October; at Lawrence, on the last Tuesday of August; and on the fourth Tuesday of December, at Ipswich, Salem or Newburyport, as the commissioners shall order at the preceding meeting. 1820, 27. 1828, 103. 1851, 227.

At Greenfield, on the first Tuesday of March and September and the second Tuesday of June and December. 1828, 103.

At Springfield, on the second Tuesday of April, the first Tuesday of October and the fourth Tuesday of June and December. 1828, 103. 1830, 42.

At Northampton, on the first Tuesday of March, September, and December and on the Tuesday next after the second Monday of June. 1828, 103. 1846, 221.

At Cambridge, on the first Tuesday of January and June; and at Lowell, on the first Tuesday of September. 1842, 1. 1857, 36.

At Dedham, on the third Tuesday of April, the fourth Tuesday of June and September and the last Wednesday of December. 1837, 200.

At Plymouth, on the first Tuesday of January, the third Tuesday of March and the first Tuesday of August. 1828, 103.

At Worcester, on the fourth Tuesday of March, the third Tuesday of June, the second Tuesday of September and the fourth Tuesday of December. 1828, 103.

SECTION 17. They may adjourn an established meeting to any shire town in the same county; and persons required to appear at, or processes returnable to, the established meeting shall appear at, and be returnable to, the adjourned meeting. Adjournment of meetings. 1869, 208. P. S. 22, § 16.

SECTION 18. They shall keep a full and complete record of the proceedings at all their meetings and, if their vote or decision is not unanimous, the record shall show how each commissioner voted. A copy of said record, attested by their clerk, shall annually, on or before the fifteenth day of January, be transmitted to the controller of county accounts, who shall submit it to the general court. Record of proceedings. 1896, 384, § 1.

SECTION 19. They shall, if their clerk and assistant clerk are absent from any regular meeting of the board, appoint one of their number a clerk pro tempore. In counties in which there is no assistant clerk of courts, they may appoint a clerk pro tempore, who may be a woman. The clerk pro tempore shall be sworn by the chairman or the presiding commissioner, shall keep a record of the proceedings of the meeting and shall return the same forthwith to the clerk, who shall enter it upon the records of the commissioners. Appointment of temporary clerk. 1890, 198. 1896, 384, § 2.

Proceedings, if commissioner is interested.
1835, 152, § 5.
R. S. 14, § 26.
1837, 151.
G. S. 17, § 12.
P. S. 22, § 17.
1900, 198.
11 Pick. 322.
2 Met. 185.
7 Cush. 395.
13 Gray, 12.
103 Mass. 120.
105 Mass. 223.
116 Mass. 73.

SECTION 20. If a commissioner is interested in a question before the board, if any part of a highway relative to which the board is to act lies within the city or town in which he resides, if he is unable to attend or if there is a vacancy in the board, the other member or members shall give notice to one or both of the associate commissioners, as the case requires, who shall then act as a member or members of the board. If a board cannot be organized in conformity with these provisions, then such residence in the city or town in which the highway lies shall be no disqualification.

Same subject.
1893, 238.

SECTION 21. The board may at any time receive a petition, take a recognizance and issue an order of notice thereon, although, as then constituted, one of its members may be disqualified under the provisions of the preceding section from hearing and determining the subject matter of such petition.

Commissioners may administer oaths, punish for contempt, etc.
R. S. 84, § 2.
1856, 53.
G. S. 17, § 14.
P. S. 22, § 19.

SECTION 22. When the commissioners are in session, they may administer oaths to witnesses and punish disorderly conduct which interrupts the business of their meeting or is an open and direct contempt of their authority or persons, by a fine of not more than five dollars or by confinement in the custody of the sheriff, a deputy sheriff or constable for not more than twelve hours.

Warrants, how served.
R. S. 84, § 3.
G. S. 17, § 15.
P. S. 22, § 21.

SECTION 23. Sheriffs, deputy sheriffs and constables shall serve and execute all legal warrants and processes to them directed by county commissioners.

General powers of commissioners.
1784, 41, § 1.
1786, 67.
1827, 77.
R. S. 14, § 31.
G. S. 17, § 16.
1862, 157.
P. S. 22, § 20.
1897, 137, § 1.
163 Mass. 37.
[1 Op. A. G. 399.]

SECTION 24. The commissioners shall have authority, —

To provide for erecting and repairing court houses, jails and other necessary public buildings within and for the use of their county; but no money shall be paid or liability incurred for such erection or repair in excess of the amount specifically authorized by the general court therefor, except for their repair in case of emergency.

To represent their county, and to have the care of its property and the management of its business and affairs in all cases not otherwise expressly provided for.

To establish a seal for their county, which shall be in the custody of their clerk and shall be affixed to all processes issued by them in cases in which a seal is required.

Return of qualification of officers.
1898, 264.

SECTION 25. They shall, upon administering the oaths of office to officers required by law to qualify before them, forthwith make return thereof to the secretary of the commonwealth.

Half holidays for county employees.
1898, 367.

SECTION 26. They may allow one half holiday in each week without loss of pay to county employees, including therein laborers, mechanics and all other classes of workmen, during such portions of the year as they may determine.

Contracts to be in writing after proposals issued.

SECTION 27. All contracts made by them for building, altering, furnishing or repairing public buildings, or for the construction of

public works, or for the purchase of supplies, shall, if exceeding eight hundred dollars in amount, be made in writing, after notice for proposals therefor has been posted in a conspicuous place in the county court house for at least one week and has been published at least three times in a newspaper, if any, published in the city or town interested in the work contracted for; otherwise in the newspaper of the most general circulation in the county. They shall, in each case, make and file with the county treasurer a certificate under oath of such publication and posting. All proposals shall be publicly opened in the presence of a majority of the county commissioners and recorded in their records. In an emergency, repairs may be contracted for without such advertisement or posting. They shall certify to the exigency upon the orders to the county treasurer for payment of all bills for such repairs. All contracts made under the provisions of this section, and all changes in, or additions to, or agreements or orders for extras under, such contract, shall be in writing and recorded in a book kept for the purpose with the records of the county. No contract made in violation of the provisions of this section shall be valid against the county, and no payment thereon shall be made by the county. The commissioners may, however, cause county buildings to be repaired by day work, if, in the judgment of the board, expressed in a vote, the best interests of the county require; but no bill in excess of eight hundred dollars for repairs done by day work shall be paid by the county treasurer unless, upon or with the bill, the clerk of the county commissioners has certified that such vote is entered upon their records.

1854, 206. G. S. 17, § 23. P. S. 22, § 22. 1897, 137, § 2. 1900, 119. 141 Mass. 74. 170 Mass. 528.

SECTION 28. If no provision is made for the approval of plans by a special board other than the county commissioners, all plans for the construction or enlargement of a jail, house of correction or reformatory shall be approved by a vote of the board of prison commissioners; and no bills for such construction or enlargement shall be incurred or paid until the plans have been so approved by a majority of such board.

Plans for jails, etc., to be approved. 1897, 316.

SECTION 29. If a person applies to the commissioners to perform any official act relative to matters in which the county has no interest, they shall first require the applicant to recognize to the county, with sureties to their satisfaction, for the payment of all costs and expenses which shall accrue to the county by reason of such application and of the proceedings thereon; and the payment thereof may be enforced as provided in section thirty of chapter forty-eight.

Recognizances required, when. 1836, 278, § 1. 1847, 259, § 2. G. S. 17, § 24. P. S. 22, § 23. 139 Mass. 212.

SECTION 30. The commissioners shall add to damages, assessed upon an application referred to in the preceding section, the costs and expenses incurred by reason of the application and the proceedings thereon. If a petition is dismissed and costs are chargeable to the petitioner, they shall be taxed for each commissioner at the rate of three dollars a day for time, and five cents a mile for travel to and from the place of meeting, and shall be paid into the county treasury.

When damages assessed, costs, etc., to be added. 1836, 278, § 2. 1859, 163, § 4. G. S. 17, §§ 25, 30. P. S. 22, §§ 24, 25.

Proceedings at other times than regular meetings.
1839, 76, § 2.
1846, 271.
1847, 259, § 1.
G. S. 17, § 26.
P. S. 22, § 26.
1885, 91.
1900, 198.

SECTION 31. The commissioners severally, except associate commissioners, may, at other times than at regular meetings, receive petitions relative to railroads or to matters in which the county has no interest and may take recognizances thereon, and, upon such petitions and similar petitions entered at a regular meeting the commissioners or the chairman of the board may, at other times than at regular meetings, appoint hearings and direct notices to be given to persons interested.

Return of such proceedings.
1839, 76, § 3.
1846, 271.
1847, 259, § 1.
G. S. 17, § 27.
P. S. 22, § 27.
114 Mass. 514.

SECTION 32. They shall severally make return of such petitions and recognizances, with their proceedings, at any regular or special meeting held for the purpose; and their clerk shall record the same. The costs of such special meeting shall be paid by such parties as the commissioners determine.

Special provisions for Nantucket county.
1834, 83.
R. S. 14, § 30.
1838, 71, § 1.

SECTION 33. In the county of Nantucket the selectmen of the town of Nantucket shall have the powers and perform the duties of county commissioners, and said town may raise money necessary to defray the county expenses. G. S. 17, § 32. P. S. 22, § 29.

— for Suffolk county.
1821, 109, § 8; 110.
R. S. 14, § 29; 84, §§ 8, 9.
1850, 299, §§ 1, 3.
1851, 336.
1852, 163.
G. S. 17, §§ 33, 34; 43, §§ 77, 80.
See 1872, 87, § 1.
P. S. 22, § 30.
1885, 266, § 6.
1898, 217, § 3.

SECTION 34. In the county of Suffolk the aldermen of the city of Boston and the aldermen of the city of Chelsea shall, except as otherwise provided, have like powers and perform like duties within their respective cities as are exercised and performed by the county commissioners of other counties; and the county commissioners for the county of Middlesex shall, except as otherwise provided, have like powers and perform like duties within the towns of Revere and Winthrop as are exercised and performed by them in their own county; and when performing duties which relate to said places, they shall be paid therefor by said places, or by either of them, in such proportions as the commissioners may direct, at the rate of five dollars a day and five cents a mile travel for each commissioner in attendance.

Provisions relative to commissioners and their clerks applicable to other officers.
R. S. 14, § 37.
G. S. 17, § 35.

SECTION 35. The provisions of law relative to the powers, duties and liabilities of county commissioners and their clerks shall, except as otherwise provided, include and apply to all other public officers who exercise the powers of such commissioners or clerks. P. S. 22, § 31.

Penalty for violation of duty.
1847, 199.
G. S. 17, § 19.
P. S. 23, § 23.
1897, 130, §§ 1-3.

SECTION 36. If a county commissioner or the clerk of the county commissioners wilfully violates a duty imposed upon him by law, he shall forfeit not less than fifty nor more than one thousand dollars, to be recovered in an action brought by the attorney general, to the use of the county.

CHAPTER 21.

OF COUNTY TREASURERS, THE CONTROLLER OF COUNTY ACCOUNTS AND COUNTY FINANCES.

SECTIONS 1–7. — County Treasurers.
SECTIONS 8–44. — County Finances and the Auditing of County Accounts.
SECTIONS 45–50. — Controller of County Accounts.

COUNTY TREASURERS.

County treasurer, oath and bond of. C. L. 150, § 2. 1692–3, 27, § 1. 1785, 76, § 1. 1811, 49. 1814, 159. 1820, 63. R. S. 14, § 45. G. S. 17, § 36. P. S. 23, § 1. 1890, 308. 1897, 128, § 1. 1898, 317.

SECTION 1. County treasurers, except in the county of Suffolk and of Nantucket, shall be sworn before the county commissioners, who shall make a record thereof. Each treasurer shall give bond to the county for the faithful performance of his official duties in a form approved by the attorney general, with such sureties and in such sum as the commissioners shall approve. An attested copy thereof and a certificate of the commissioners that the original is in their possession shall be filed with the secretary of the commonwealth within one week after its approval. Suit upon such bond may be brought in the name and for the benefit of the county, either by the county commissioners of such county or by the attorney general.

Salaries. C. L. 151, § 4. 1785, 76, § 2. 1791, 53, § 5. 1794, 48, § 2. R. S. 14, § 51; 141, § 10. 1859, 253, §§ 1-3. G. S. 17, § 37. 1867, 278. 1868, 92. 1872, 80. 1872, 247. 1873, 90. 1874, 124. 1879, 246. 1881, 158. P. S. 23, § 2.

SECTION 2. The treasurer shall be provided by the county with an office in the court house or other county building, and shall receive from the county an annual salary, in full for all services by him performed, as follows: —

For the county of Barnstable, five hundred dollars.
For the county of Berkshire, fifteen hundred dollars. 1889, 58.
For the county of Bristol, two thousand dollars. 1889, 16. 1898, 322.
For the county of Dukes County, three hundred dollars.
For the county of Essex, twenty-two hundred dollars. 1886, 133.
For the county of Franklin, six hundred dollars. 1884, 112. 1898, 323.
For the county of Hampden, eighteen hundred dollars.
For the county of Hampshire, eight hundred dollars. 1887, 159.
For the county of Middlesex, thirty-five hundred dollars. 1887, 57. 1898, 294.
For the county of Norfolk, two thousand dollars. 1890, 143. 1892, 295.
For the county of Plymouth, twelve hundred dollars. 1898, 330.
For the county of Worcester, twenty-two hundred dollars. 1889, 260. 1886, 132.

Clerical assistance. 1889, 85, 310. 1892, 144. 1893, 156. 1895, 113, 133. 1896, 147. 1897, 257. 1899, 153. 1901, 388.

SECTION 3. The treasurer shall be allowed for clerical assistance the following sums, which shall be payable monthly from the county treasury to the person performing the work upon his certificate, countersigned by the county commissioners, that the work has been actually performed: —

For the county of Bristol, not more than six hundred dollars.
For the county of Essex, not more than six hundred dollars.
For the county of Middlesex, not more than eight hundred dollars.
For the county of Norfolk, not more than two hundred dollars.
For the county of Plymouth, not more than three hundred dollars.
For the county of Worcester, not more than six hundred dollars.

Travelling expenses. 1896, 176.

SECTION 4. The treasurers of the counties of Bristol, Essex, Middlesex and Worcester shall be paid their actual and proper travelling expenses incurred in the transaction of the business of the county. An itemized statement thereof shall, on the first day of each month, be certified to the county commissioners, by whom it shall be audited and approved.

Treasurer of Suffolk and of Nantucket county. 1821, 109, § 12. 1823, 91.

SECTION 5. In the county of Suffolk, the treasurer of the city of Boston, and in the county of Nantucket, the treasurer of the town of Nantucket, shall be the county treasurer.

R. S. 14, §§ 47, 48. G. S. 17, §§ 44, 45. P. S. 23, §§ 3, 4.

Certain persons ineligible as treasurer. C. L. 150, § 2. 1809, 91.

SECTION 6. No person who holds the office of attorney general, district attorney, justice of the superior court, clerk of the courts or sheriff shall be county treasurer. R. S. 14, § 49. G. S. 17, § 46. P. S. 23, § 5.

Penalties for violation of official duty. 1897, 130, §§ 1, 2.

SECTION 7. A county treasurer who wilfully violates a duty imposed upon him by law shall forfeit not less than fifty nor more than one thousand dollars, to be recovered in an action brought by the attorney general to the use of the county.

COUNTY FINANCES AND THE AUDITING OF COUNTY ACCOUNTS.

Treasurer to collect, etc., county money. C. L. 151, § 2. 1864, 280, § 2. P. S. 23, § 6.

SECTION 8. Each county treasurer shall collect, receive and safely keep all money belonging to the county, and pay out the same in accordance with law; but he shall not pay money to the county commissioners or associate commissioners to be disbursed by them in behalf of the county.

— not to pay out certain money without order from commissioners, etc. 1785, 76, § 2. R. S. 14, § 50. G. S. 17, § 39. 1864, 280, §§ 2, 4. 1880, 198, §§ 1, 5. P. S. 23, §§ 7, 8, 14. 1890, 206, §§ 1, 2. 1897, 128, § 4.

SECTION 9. No payments, except of expenses in criminal prosecutions, of expenses of the courts, of the compensation or salaries of county officers established by law, of outstanding notes or bonds and of interest thereon, shall be made by a treasurer except upon orders drawn and signed by a majority of the county commissioners, certified by their clerk and accompanied, except in the county of Suffolk, by the original bills, vouchers or evidences of county indebtedness for which payment is ordered, stating in detail the items and confirming such bill or account. Said clerk shall not certify such orders until he has recorded them in the records of the county commissioners.

Delivery to treasurer of bills for expenses of sittings of courts. 1890, 206, § 3.

SECTION 10. The original bills or vouchers for services and expenses incidental to the sittings of the supreme judicial court and the superior court under the provisions of section eight of chapter one hundred and fifty-eight shall be delivered to the county treasurers, or in the county of Suffolk, to the auditor of accounts of the city of Boston, with the orders for the payment of the same.

Bills, vouchers, etc., to be filed and kept. 1864, 280, §§ 2, 4. P. S. 23, § 9.

SECTION 11. All bills, vouchers and other evidences of county indebtedness shall be carefully filed and safely kept by the treasurer, so as to be accessible for subsequent reference. 1890, 206, § 2.

SECTION 12. The county treasurer may, before payment of an account rendered against the county by a county officer, in writing require of him a written statement of the specific provision of law authorizing it. Said statement shall be filed with the vouchers. The treasurer shall be personally liable for money paid out by him, except payments specifically required by law, unless there is an unexpended balance of an appropriation made for the purpose sufficient for such payment, and he shall be personally liable for any money paid by him without the voucher and certificate required by law, except as provided in section thirty-four. County officers may continue the several departments under their charge after the close of the financial year, at the rate of expenditure authorized for the previous year, until an appropriation therefor has been made by the general court.

Treasurer may require statement of law authorizing payment. 1880, 198, § 2. P. S. 23, § 10. 1897, 128, § 2.

SECTION 13. Each county treasurer shall keep a full and accurate account stating when, from whom and on what account money has been received, and when, to whom and on what account payments have been made. Except in the county of Suffolk, his books shall be kept in the form prescribed by the controller of county accounts.

Treasurer's accounts. C. L. 150, § 2. 1864, 280, § 3. P. S. 23, § 11. 1897, 153, § 1.

SECTION 14. The financial year of each county except Suffolk shall be the calendar year, but each treasurer shall, until the tenth day of January, enter in his books the items for the payment of bills incurred and salaries earned during the previous year. Immediately after the first day of January, the treasurer of each county except Suffolk shall pay to every officer in his county any balance of his salary remaining due.

Financial year of counties. 1897, 153, § 2.

SECTION 15. Licenses issued, indorsed or countersigned by a county treasurer shall be indorsed or countersigned and recorded by the clerk of courts for the county; and receipts for money paid to a county treasurer shall be given in duplicate, one copy to the person making payment and one to said clerk.

Countersigning of licenses; receipts to be in duplicate. 1880, 198, § 3. P. S. 23, § 12.

SECTION 16. County treasurers shall pay no fees to clerks of courts for any official service. 1890, 209, § 1.

Treasurer to pay no fees to clerk of courts.

SECTION 17. The county treasurer shall pay all claims against his county within ten days after they have been passed upon and allowed. He may pay any claim by a bank check which, when paid and returned, shall be a sufficient receipt therefor.

Payment by check, etc. 1880, 198, § 4. P. S. 23, § 13.

SECTION 18. Sections eight, twelve, fifteen and seventeen shall not apply to the county of Suffolk. 1864, 280, § 2. 1880, 198, § 5. P. S. 23, § 14.

Certain sections not to apply to Suffolk.

SECTION 19. Salaries payable from a county treasury shall be payable in monthly instalments on the first day of each month; but no monthly instalment of salary shall be paid to clerks of courts until all fees then payable by them to the county have been paid to the county treasurer or other officer entitled thereto.

Salaries of county officers payable monthly. 1881, 158. P. S. 23, § 15. 1890, 209, § 3.

Treasurer may sue on county bonds, etc.
1797, 14.
R. S. 14, § 54.
G. S. 17, § 42.
P. S. 23, § 16.

SECTION 20. A county treasurer may prosecute to final judgment and execution suits upon bonds, notes and other securities given to the county or to him or to any of his predecessors in office. He may also prosecute for injuries done to the public land, buildings, or other property of his county.

— to give notice, etc., when public officer fails to pay over money.
1859, 221, § 4.
G. S. 17, § 43.
P. S. 23, § 17.

SECTION 21. If a public officer, who is required by law to account with and pay over money to a county treasurer, fails so to do for ten days after the time prescribed by law therefor, the treasurer shall give notice thereof to the district attorney, who shall forthwith proceed to recover the amount due.

Surplus cash to be deposited in banks.
1876, 143, § 1.
P. S. 23, § 18.
1890, 215.
1899, 108.

SECTION 22. County treasurers, clerks of the courts, clerks of police, district and municipal courts, justices of courts having no clerk, sheriffs and masters of jails and houses of correction having more money in their hands than is required for immediate use, shall deposit it, in their official names, in national banks or trust companies in this commonwealth at the best practicable rates of interest, which interest shall be paid into the county treasury.

Interest upon overdue accounts.
1876, 143, § 2.
P. S. 23, § 19.

SECTION 23. If a time is fixed for the payment of money due to a county, the debtor shall, if notice has been given to him by the county treasurer seven days at least before the time fixed for such payment, pay interest to the county at the rate of twelve per cent per annum from such time until the money is paid.

Annual report of treasurer.
1811, 74, § 2.
1864, 280, § 6.
P. S. 23, § 28.
1890, 141, § 1.
1897, 153, § 3.

SECTION 24. Immediately after the tenth day of January, the county treasurer of each county except Suffolk shall annually prepare a report of the receipts and expenditures of the county for the preceding financial year, stated separately under the heads prescribed by the controller of county accounts for keeping the county treasurer's books. Such statement shall contain in detail the name of every person, except witnesses, by or to whom money has been paid, the amounts so paid or received under the appropriate classification and the objects of payment. It shall also contain a table setting forth the appropriation made by the general court for each specific object, the amount which has been expended out of each specific appropriation, the unexpended balance thereof and, if the payments have exceeded any such appropriation, the amount of the excess.

— of county commissioners.
1853, 310, § 1.
G. S. 17, § 20.
P. S. 23, § 27.
1890, 141, § 2.
1897, 153, § 4.

SECTION 25. Immediately after the tenth day of January, the county commissioners for each county except Suffolk shall prepare a report upon the affairs of the county, in which they shall state what action they have taken in the preceding year, in such manner as to give the taxpayers of the county a full and clear understanding of the affairs of the county and of the objects and methods of county expenditures. They shall state specifically what petitions relating to highways have been received, and what highways have been laid out, altered, relocated or discontinued, the manner in which such alterations or new highways are to be made, the time within which they are to be completed, what have been completed, at what cost and at whose expense, and what remain to be completed, what damages or betterments have been estimated or awarded and to whom,

what damages have been paid and what suits are pending in relation thereto. They shall also state what highways or parts of highways have been laid out under the betterment laws and what betterments have been paid; also their action relative to town ways and private ways; what applications relative to state highways they have made to the Massachusetts highway commission, and, so far as they are able to ascertain, what highways have been laid out within the county by said commission, what have been constructed, and at what expense; what sums expended by the commonwealth in the county for highways have been repaid by said county to the commonwealth, what sums remain to be paid and at what times. They shall also make a detailed statement of the repairs upon the several county buildings, stating separately the work done by contract and by day work, and the money paid, and the liabilities incurred in the construction of new buildings. They shall also present a table showing the salaries paid to county officers, stating separately those prescribed by law. They shall also include a statement of the county debt, specifying the time of maturity of the several obligations and the rates of interest, stating separately the loans made in anticipation of taxes and the permanent loans; the amount of county taxes due and unpaid at the time of making said report, and a list of the assets of the county, including land, buildings, law library, furniture in court houses, jails and other public buildings.

Publication of reports. Distribution. 1828, 18. R. S. 14, § 36. 1853, 310, § 1. G. S. 17, § 20. P. S. 23, § 27. 1890, 141, § 2. 1897, 153, § 5.

SECTION 26. The county treasurer of each county except Suffolk shall cause the report of the county commissioners to be printed and bound with his own report in a sufficient number to furnish a copy for every three hundred inhabitants of the county, and shall send a copy to the state library, the controller of county accounts and to the mayor of each city and the selectmen of each town in the county, and shall send other copies to the clerk of each city and town in the county, in proportion to the population, for the use of the inhabitants. He shall, at the close of each year, publish in not more than three newspapers published in the same or an adjoining county, an account of the receipts and expenditures of the county arranged under distinct heads, and a specific statement of the debts of the county, the purposes for which they were contracted and the time when they become due.

Estimates of county expenses. 1781, 22, § 1. 1792, 26. 1811, 74, § 2. 1834, 122, § 1. R. S. 14, §§ 31, 32, 35. 1836, 137. G. S. 17, § 18. P. S. 23, § 22. 1895, 143. 1896, 128. 1897, 153, § 6. 1898, 317.

SECTION 27. The county commissioners of each county except Suffolk and Nantucket shall annually prepare estimates of the receipts and expenditures of their counties for the ensuing year, including estimates for the construction and repair of county buildings and their appurtenances. Said estimates shall be made in such form as the controller of county accounts shall direct, and upon blanks furnished by him. They shall be recorded by the clerk of the commissioners in a book kept for the purpose, and a copy thereof, signed by the chairman and attested by the clerk, shall, on or before the fifteenth day of January, be sent by the clerk to the controller of county accounts who shall analyze and classify said estimates, and report the same in print to the general court not later than the first day of February. He shall send a copy of said report to the mayor of each city and to the selectmen of each town in the commonwealth.

Expenditures authorized by general court.
1895, 482, § 1.
1896, 357, § 1.
1897, 153, § 7.
1898, 317.

SECTION 28. The expenditure of money by the several counties except Suffolk and Nantucket shall be authorized by the general court. There shall be a separate appropriation for each item of expenditure, as prescribed by the controller of county accounts. At the closing of the county treasurer's books on the tenth day of January the balance to the credit of each annual appropriation shall become a part of the general unappropriated balance in the county treasury; but no special appropriation shall lapse until the work for which it was made has been completed, the bills paid and the account closed.

Amount of county tax regulated.
1897, 153, § 8.

SECTION 29. The amount which the county commissioners shall levy as the county tax shall be authorized by the general court annually, and shall be computed by adding together the amounts of the annual appropriation and of the new special appropriation, if any, so far as the money therefor is to be raised by taxation, and deducting therefrom so much of the probable receipts from all sources, except loans, and of the unappropriated balance in the county treasury at the closing of the treasurer's books for the previous financial year as the general court considers advisable.

Commissioners to apportion county taxes.
1781, 22, § 2.
R. S. 14, §§ 31, 33.

SECTION 30. The county commissioners shall apportion all county taxes according to the latest state valuation, and shall, by their clerk, certify to the assessors of the several cities and towns their respective proportions thereof and prescribe the time for payment.

G. S. 17, § 21. 1877, 30. P. S. 23, § 24.

Payment of county taxes.
1889, 253.

SECTION 31. The amounts apportioned to, and assessed upon, the several cities and towns for county taxes shall be collected and paid like the state tax into their respective city and town treasuries, and the county commissioners in their warrants shall require the selectmen or assessors of each city or town to pay, or issue their warrant requiring the treasurer thereof to pay, to the county treasurer the amounts apportioned to said city or town, at such times as shall be fixed in such warrant.

Expenditures in excess of appropriations.

SECTION 32. No county expenditure shall be made nor liability incurred, nor shall a bill be paid for any purpose, in excess of the amount appropriated therefor, except as hereinafter provided.

1895, 482, § 1. 1896, 357, § 1. 1897, 153, § 9.

Proceedings when appropriation is insufficient.
1895, 482, § 2.
1896, 357, § 2.
1897, 153, § 10.
[1 Op. A. G. 391, 509.]

SECTION 33. If the appropriation for any purpose is insufficient to meet an expenditure required by law, the county treasurer may, on the order of the county commissioners, pay therefor out of any money in the county treasury. The county commissioners shall place on their records a statement of such payments, with the reasons in detail therefor, and shall report fully and specifically thereon in their next annual report.

Payments from unappropriated balances.
1895, 482, § 3.
1896, 357, § 4.
1897, 128, § 2; 153, § 11.

SECTION 34. The county commissioners and other officers authorized to incur liabilities payable from the county treasury may, after the expiration of the financial year and before the regular annual appropriations have been made by the general court, incur

liabilities, which may be paid from any unappropriated balance in the treasury, for any purpose, at the rate of expenditure authorized for the preceding year, but not exceeding one-half the last annual appropriation therefor. No new or unusual expense shall be incurred or permanent contract made or salary increased until an appropriation sufficient therefor has been made by the general court. Payments made therefor shall be charged to the regular annual appropriation when made.

Enforcement of duties of commissioners and treasurers. 1897, 153, § 12.

SECTION 35. The supreme judicial court, upon the suit of the attorney general or petition of one or more taxable inhabitants of a city or town in any county, may, by process at law or in equity, compel the performance of any duties imposed upon the county commissioners or upon the treasurer of such county, by sections nine, eleven, thirteen, fourteen, twenty-four to twenty-nine, inclusive, thirty-two, thirty-three and thirty-four and sections twenty-four and twenty-seven of chapter twenty.

Investigation of county expenditures. 1898, 432.

SECTION 36. Upon a petition, subscribed and sworn to by five hundred owners of real estate in a county, filed in the superior court of such county not less than thirty days before a state election therein, stating that the petitioners are owners of real estate in such county on which they have paid taxes within one year prior to the date of the petition, that they believe and have reason to believe that the money of such county is being, or has been, unlawfully or corruptly expended and that they desire an investigation thereof, said court shall, if on a hearing there is reasonable cause to believe that the averments of the petition are true, after ten days' notice to the county commissioners and to the county treasurer, make a summary investigation of such alleged unlawful or corrupt expenditures. The court may require the assistance of the county treasurer and other county officers necessary to facilitate such investigation, may appoint experts to examine the books and accounts of the persons under investigation and may cause the results thereof to be published in such manner as it deems proper. The costs incurred by such investigation shall be taxed by the court and paid by the county.

Suffolk and Nantucket counties unaffected. 1897, 153, § 13.

SECTION 37. The provisions of sections thirteen, fourteen, twenty-four to twenty-nine, inclusive, thirty-two, thirty-three and thirty-four shall not affect the special provisions of law relative to the counties of Suffolk and Nantucket.

Annual account. 1785, 76, § 2. R. S. 14, §§ 31, 35, 51. G. S. 17, §§ 17, 40. P. S. 23, §§ 20, 21. 1897, 130, § 4.

SECTION 38. At the close of each year the county treasurer shall render his account to the county commissioners for all money received and paid by him in behalf of the county; and when the account has been approved and allowed by the county commissioners, it shall be delivered by him to the clerk of the commissioners.

Debts for temporary loans regulated. 1853, 310, § 2. 1854, 238. 1859, 231. G. S. 17, § 22. P. S. 23, § 26. 1897, 128, § 3.

SECTION 39. County commissioners may incur debts for temporary loans in anticipation of, and to be paid from, the taxes of the year in which such debts are incurred to an amount not exceeding the current annual tax; but until the annual tax has been granted by the general court, it shall not exceed the amount of the previous

annual tax. They may issue the notes of the county therefor, bearing interest. Such notes shall be signed by the treasurer and countersigned by a majority of the county commissioners; shall be expressly made payable from the taxes of the year in which they are issued; shall become due and payable within one year after the date when the debt for which they are issued was incurred; and shall not be sold at less than par. Except as herein provided, neither county commissioners nor county treasurers, except in Suffolk and Nantucket counties, shall have authority to borrow money or negotiate loans upon the credit of the county.

Proposals for purchase of bonds, etc., for county loans, to be advertised. 1895, 111.

SECTION 40. If notes, bonds or certificates of indebtedness increasing the indebtedness of a county have been authorized and are to be issued, the county commissioners shall invite proposals for the purchase thereof by advertisements in two or more newspapers published in said county, if such there be, and by advertisements in at least three daily newspapers published in the city of Boston. They shall reserve the right to reject any and all bids. The bids shall be opened in public and a record thereof shall be made in their records. If no proposal is accepted they may award the whole or any part of the loan to any person.

Notice to officers to make returns of fines, etc. 1874, 394, § 4. P. S. 23, § 29.

SECTION 41. Each county treasurer shall annually, in November, give notice to all officers, required to account for and pay over to him any fines, expenses, forfeitures, fees and money, to make the returns thereof, specifying the statutes requiring the same.

Sworn certificates of certain officers to accompany payments to treasurers. 1893, 270, § 2. 1901, 109.

SECTION 42. Sheriffs, masters of houses of correction, keepers of jails or of truant schools, or other public officers, when making payment to county treasurers of public funds, shall deliver therewith a sworn certificate of such details as the controller of county accounts prescribes. City or town treasurers or city or town clerks, when making such payments to county treasurers, except the treasurer of the county of Suffolk, shall deliver therewith a statement, in such form as may be prescribed by said controller, showing the date, amount and purpose of said payments, and shall forthwith transmit a duplicate thereof to said controller.

County treasurers to make annual return to county controller of fines, etc., received. C. L. 151, § 4. 1874, 394, § 5. P. S. 23, § 30. 1891, 187. 1892, 430.

SECTION 43. Each county treasurer shall annually, in January, return to the controller of county accounts a statement, under oath, of all fines, forfeitures, expenses, fees and money received by him in criminal matters during the preceding year, from whom they were received, and the name of each magistrate or officer who has failed to account for and pay over the same to him and what proceedings have been taken by reason of such failure. He shall also annually, on or before the fifteenth day of October, make a return to the prison commissioners, upon blanks to be provided by them, of all amounts paid or received by him on account of any jail or house of correction for the year ending on the preceding thirtieth day of September.

Auditor of city of Boston to be auditor of Suffolk county. 1879, 256, §§ 1, 2. P. S. 23, §§ 34, 35.

SECTION 44. The auditor of accounts of the city of Boston shall be the auditor of the county of Suffolk; and all bills against said county shall be audited and allowed by him prior to payment. He

shall be paid by the county of Suffolk not more than eight hundred dollars a year, and at the same rate for any part of a year, in full for all services rendered by him as county auditor, and for all clerical assistance.

CONTROLLER OF COUNTY ACCOUNTS.

Controller of county accounts. 1887, 438, § 1.

SECTION 45. The governor, with the advice and consent of the council, shall appoint a controller of county accounts for the term of three years from the date of his commission.

Salary and deputies of controller. 1887, 438, § 2. 1890, 306. 1895, 175. 1898, 477. 1900, 137. [1 Op. A. G. 199.]

SECTION 46. The controller may appoint, with the approval of the governor and council, and subject to removal with their consent, three deputy controllers. If the controller is disabled from performing his official duties, or if the office of controller is vacant, the first deputy shall perform the duties thereof. The annual salary of the controller shall be twenty-five hundred dollars; of the first deputy, eighteen hundred dollars, of the second deputy, fifteen hundred dollars and of the third deputy, twelve hundred dollars, payable by the commonwealth. The controller shall be allowed the actual expenses of himself and his deputies incurred in travelling in the performance of official duties.

Controller to examine accounts of county officers. 1879, 293, § 1. 1880, 161, § 2. P. S. 23, § 37. 1887, 438, § 3. 1890, 380, § 3. 1897, 129.

SECTION 47. The controller or his deputy shall, without previous notice, inspect the books and accounts of the county treasurer of each county except Suffolk at least once a year and examine all original vouchers for the expenditures made by said treasurer, and if the same are correct, and accompanied by sufficient vouchers stating in detail the items of each bill or account, and such vouchers confirm and sustain such bills and accounts, and if, in case of all payments in excess of eight hundred dollars, the provisions of section twenty-seven of chapter twenty have been complied with, he shall so certify on the cash book of the treasurer, and shall set forth in words at length the balance existing when the examination is completed. If such accounts are incorrect or not accompanied by sufficient vouchers, the controller shall, unless the inaccuracy or deficiency is promptly rectified, give notice in writing to the county commissioners and to the attorney general, and shall make a full statement thereof in his next annual report.

Visitations. Accounts. Returns to controller. 1879, 293, § 1. 1880, 161, §§ 1, 3. 1881, 187, 217. P. S. 23, §§ 36, 38. 1887, 438, §§ 3, 4, 6. 1890, 306. 1893, 270, § 1. 1894, 183. 1895, 493, §§ 4, 5. 1900, 116. 1901, 110. [1 Op. A. G. 510.]

SECTION 48. He or his deputy shall also visit, at least once a year without previous notice, all other county officers who receive money payable by them to the county treasurer, clerks of the supreme judicial court and the superior court in the county of Suffolk, the recorder and all assistant recorders of the court of land registration, registers of probate and insolvency, registers of deeds, trial justices and clerks of police, district and municipal courts, and justices of such courts having no clerk, and truant schools, and shall make an examination of their accounts and vouchers and the items of receipts and expenditures. He shall ascertain the actual amount of money on hand in each of said departments or with any of said officers. He shall require, so far as possible, uniformity and correctness in the method of keeping said accounts, and may prescribe the classification of receipts and expenditures and a uniform system of re-

ceipts, certificates, vouchers and exhibits. Said officers and persons shall afford to the controller and his deputies such assistance as he may require in making such examination and shall make returns and exhibits under oath in such form and at such times as he shall prescribe. They shall also keep an accurate account of all money charged or received by them in their official capacities, and also of all expenditures made or liabilities incurred by them on account of the same, and shall annually, on or before the fifteenth day of January, make a return under oath to said controller of such receipts and expenditures for the preceding year.

Annual report.
1880, 161, § 1.
P. S. 23, § 36.
1887, 438, § 6.
1888, 275, § 1.

SECTION 49. The controller shall annually, on or before the first day of February, make a report to the general court in which he shall include the material portions of the returns made under the provisions of the preceding section, compiled in tabular form, with his suggestions and recommendations.

Penalties on county, etc., officers.
1847, 199.
1880, 161, § 3.
P. S. 23, § 38.
1887, 438, §§ 4, 7.
1890, 216, § 2.

SECTION 50. An officer or person named in sections forty-seven and forty-eight who refuses or neglects to comply with the provisions of said sections or who, for more than ten consecutive days, refuses or neglects to enter in the cash book prescribed by the controller all money received and expended by him in his official capacity or on account of the same, or refuses or neglects to give any information within his knowledge which may be required by said controller or his deputies, shall be punished by a fine of not more than one hundred dollars for each offence, and the controller shall report such refusal or neglect to the attorney general.

CHAPTER 22.

OF REGISTERS OF DEEDS.

Registry districts in Berkshire county.
1788, 5.
1805, 42.
1812, 83.
R. S. 14, §§ 110-113.
1848, 4.
1857, 123, § 1.
G. S. 17, § 82.
1868, 325, § 5.
1876, 127.
P. S. 24, § 1.

SECTION 1. The county of Berkshire is divided into three districts for the registry of deeds, as follows: — The city of Pittsfield and the towns of Becket, Dalton, Hinsdale, Lee, Lenox, Otis, Peru, Richmond, Stockbridge, Tyringham and Washington constitute the middle district, with its office in Pittsfield; the portion of said county which lies north of the middle district constitutes the northern district, with its office in Adams; and the portion of said county which lies south of the middle district constitutes the southern district, with its office in Great Barrington.

— in Bristol county.
1837, 186, §§ 1-4.
G. S. 17, § 83.
1861, 23.
P. S. 24, § 2.
1891, 234, § 1.

SECTION 2. The county of Bristol is divided into three districts for the registry of deeds, as follows: — The city of New Bedford and the towns of Acushnet, Dartmouth, Fairhaven and Westport constitute the southern district, with its office in New Bedford. The city of Fall River and the towns of Freetown, Somerset and Swansea constitute the Fall River district, with its office in Fall River. The remainder of said county constitutes the northern district, with its office in Taunton.

SECTION 3. The county of Essex is divided into two districts for the registry of deeds, as follows: — The city of Lawrence and the towns of Andover, Methuen and North Andover constitute the northern district, with its office in Lawrence. The remainder of said county constitutes the southern district, with its office in Salem.

Registry districts in Essex county.
1869, 445, §§ 1, 5.
P. S. 24, § 3.

SECTION 4. The county of Middlesex is divided into two districts for the registry of deeds, as follows: — The city of Lowell and the towns of Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewksbury, Tyngsborough, Westford and Wilmington constitute the northern district, with its office in Lowell. The remainder of said county constitutes the southern district, with its office in Cambridge.

— in Middlesex county.
1855, 79.
1856, 116.
G. S. 17, § 84.
1860, 162.
P. S. 24, § 4.

SECTION 5. The county of Worcester is divided into two districts for the registry of deeds, as follows: — The city of Fitchburg and the towns of Ashburnham, Leominster, Lunenburg and Westminster constitute the northern district, with its office in Fitchburg. The remainder of said county constitutes the Worcester district, with its office in Worcester.

— in Worcester county.
1884, 40, § 1.

SECTION 6. Each of the other counties shall have an office for the registry of deeds in a shire town thereof.
1783, 60, § 1. R. S. 14, § 103. G. S. 17, § 85. P. S. 24, § 5.

Registries in other counties.
C. L. 33, § 4.
1715-16, 5, § 4.

SECTION 7. Each register of deeds, except in the county of Suffolk, shall be sworn before the county commissioners and, in the county of Suffolk, before one or more of the aldermen of the city of Boston. Each register shall give bond to the county for the faithful performance of his official duty, with such sureties and in such sum as the commissioners or mayor, respectively, shall approve. 1890, 308.

Register to be sworn and give bond.
1697, 21, § 5.
1715-16, 5, § 1.
1783, 60, § 1.
1825, 145, § 2.
R. S. 14, § 102.
G. S. 17, § 86.
P. S. 24, § 6.

SECTION 8. Each register may, subject to the approval of the superior court, appoint an assistant register of deeds, who may be a woman, who shall give bond in the same manner as the register, who shall be removable at his pleasure and for whose official acts he shall be responsible.

Assistant registers.
1872, 34, § 1; 181, § 1.
1873, 19, § 1.
P. S. 24, § 9.
1885, 7.

SECTION 9. Any document or paper certified or attested by such assistant register shall be admissible evidence as if certified or attested by the register. P. S. 24, § 10.

Certification by assistant.
1872, 34; 181, § 2.
1873, 19, § 2.

SECTION 10. During the disability of a register or a vacancy in the office, the assistant register or, if there is none, the clerk in the office shall receive and enter all deeds, instruments and papers as provided for by this chapter.

Assistant register to act, when.
1863, 200, § 2.
P. S. 24, § 11.

SECTION 11. If a register, upon presentment of the grand jury, is found guilty of misconduct in his official duties, or if from bodily or mental infirmity he is incapable of rightly performing in person the duties of his office, the county commissioners or, in the

Removal of register.
1786, 57, § 5.
R. S. 14, § 105.
G. S. 17, § 88.
P. S. 24, § 7.

county of Suffolk, the superior court shall, after reasonable notice remove him from office, and may order the books, papers and other things belonging to the office to be delivered to their clerk or to a new register when appointed or elected.

New register to record deeds unrecorded by his predecessor.
1863, 200, § 1.
1871, 4.
P. S. 24, § 8.

SECTION 12. If a register dies, is removed or if his term of office expires, and deeds or other instruments entered in his office are unrecorded, or records are unattested, or deeds or other instruments are recorded but unattested, his successor shall record and attest such unrecorded deeds or instruments conformably to the entry thereof, and shall attest such records, deeds and other instruments remaining unattested, agreeably to the facts and in conformity with the records and books of entry in the office.

Register's office to be kept open.
1783, 60, § 1.
R. S. 14, § 103.
G. S. 17, § 89.
P. S. 24, § 12.
1892, 121.
1900, 327, § 1.
1901, 383.
175 Mass. 193.

SECTION 13. Every register shall keep in the office of his registry all books, records, deeds and papers belonging thereto, and shall have such office open a fixed number of hours daily except on Sundays and legal holidays, for the receiving and recording of papers. The hours fixed by the registers in the respective counties on the eighteenth day of May in the year nineteen hundred shall continue as the fixed hours herein prescribed until changed by order of the county commissioners, who shall have jurisdiction to fix such hours for the receiving and recording of papers in each registry. Notice of the hours fixed shall be given by placing printed notices in conspicuous places upon or near the entrance door and upon the walls or counters in each registry.

Place of record.
1697, 21, § 5.
1783, 37, § 4.
R. S. 14, § 114; 59, § 22.
1856, 254.
G. S. 17, § 90.
P. S. 24, § 13.

SECTION 14. Every deed and other instrument required to be recorded in the registry of deeds shall be recorded in the registry of the county or district in which the land lies to which such deed or instrument relates; and in all things relating to the register or registry of deeds, each district therefor shall be deemed to be a county.

Record of office copies of deeds of land lying in more than one county or district.
1889, 448.

SECTION 15. If a deed or other writing affecting land lying in more than one county or district has been recorded in one county or district in which a part of the land lies, an office copy thereof recorded in any other county or district in which another part of the land lies, and in which the original has not been recorded, shall have the same effect as a record of the original instrument.

Register to keep book for noting receipt of deeds.
1830, 15, § 1.
R. S. 59, § 23.
G. S. 17, § 92.
P. S. 24, § 14.
140 Mass. 114.

SECTION 16. Every register of deeds shall keep a book, each page of which shall be divided into six columns, with the following headings: —

Date of reception.	Grantors.	Grantees.	Town where the land lies.	To whom delivered after being recorded.	Fees received.

Receipt of papers to be noted therein.
1830, 15, § 2.
R. S. 59, § 24.
G. S. 17, § 93.
P. S. 24, § 15.
1900, 327, § 2.
146 Mass. 612.
175 Mass. 193.

SECTION 17. He shall enter in said book, in the order in which they are received, all deeds and instruments left for record, and all copies left as cautions, noting in the first column the day, hour and minute of reception, and the other particulars in the appropriate columns; and every deed or instrument shall be considered as recorded at the time so noted. Papers received for record outside

the hours fixed under the provisions of section thirteen shall be entered as of the first minute of the next succeeding business hour.

Manner of recording instruments, etc. 1844, 104. G. S. 17, § 94. P. S. 24, § 16.

SECTION 18. He shall record all instruments upon the pages of the record books in a fair and legible handwriting or in print, and in continuous successive lines; and he shall note on the record, before attesting the same, all erasures and interlineations made therein.

Stamp, etc., to be noted. 1863, 225. P. S. 24, § 17.

SECTION 19. He shall note upon the record of any instrument recorded by him the value of any stamp affixed thereto pursuant to the laws of the United States, and the cancellation thereof.

Evidence of payment of succession taxes to be recorded. 1868, 132. P. S. 24, § 18.

SECTION 20. He shall record receipts of United States collectors of internal revenue for succession taxes, or other evidence of the payment of said taxes, if the person applying for such record has first made affidavit of the genuineness of such receipt or evidence before a justice of the peace or other person qualified to take acknowledgment of deeds.

Duplicate records, fees for. 1892, 253.

SECTION 21. The register shall, at the expense of the county, procure and keep duplicate record books, in which he shall, if so directed by the county commissioners or if so requested by any person lawfully interested in preserving the record of such deed or instrument, make fair and legible copies of the record of any deed or other instrument existing in the registry which has become worn, mutilated or indistinct. He shall attest such copies, referring in his certificate of attestation to the book and page of the original record, and shall make a memorandum on the margin of the first page of the original record of such deed or instrument, referring to the volume and page of the duplicate records upon which such copies are made. Such copies shall have the same force as the original records. He shall receive the same fees for such copies and memoranda which are made at the request of a person other than the county commissioners, as he would be entitled to receive for an original record, and they shall be paid by the person requesting the same.

Noting assignment, etc., of mortgage when it and the mortgage are recorded in different registries. 1868, 197. P. S. 24, § 19.

SECTION 22. If an assignment, extension or release of a mortgage of land, or a certificate of the taking or surrender of possession for foreclosure of such mortgage, or an affidavit of notice of sale under a power of sale under such mortgage, or an execution for possession of the premises conveyed by such mortgage, has been recorded in the county or district in which the land lies, and the original mortgage was not recorded in the same registry, the register of the county or district in which such mortgage was originally recorded, upon having exhibited to him at the registry such assignment, extension, release, certificate, affidavit or execution, shall enter upon the margin of the record of the original mortgage a note of reference to the record thereof, and shall be entitled to receive therefor twenty-five cents.

Noting releases, etc., of tax titles.

SECTION 23. If an assignment, release, partial release, discharge or disclaimer affecting a title to land created by a sale or taking

1878, 266, § 11. P. S. 24, § 20.

for payment of a tax or assessment is recorded, the register shall make a note of reference thereto on the margin of the record of the deed or instrument of sale or taking, if in his registry and referred to in such conveyance.

Certificate on deed of date and place of record. 1697, 21, § 5.

SECTION 24. He shall certify upon every instrument recorded by him the time when it was received and the number of the book and leaf or page where it is recorded.

R. S. 59, § 25. G. S. 17, § 95. P. S. 24, § 21.

Indexes and the form thereof. 1845, 205, § 1. G. S. 17, § 96. P. S. 24, § 22. 1885, 29.

SECTION 25. He shall keep two sets of indexes, each divided into six columns, with headings in one as follows: —

Date of reception.	Grantors.	Grantees.	Book.	Leaf or page.	Town where the land lies.

And in the other as follows: —

Date of reception.	Grantees.	Grantors.	Book.	Leaf or page.	Town where the land lies.

In the county of Suffolk, the indexes need not contain the column with the heading, "Town where the land lies."

Entries in indexes, when and how made. 1845, 205, § 2. G. S. 17, § 97. P. S. 24, § 23. 1885, 29.

SECTION 26. He shall, within twenty-four hours after a deed or other instrument which he is by law required to record has been left for record, cause the name of each grantor, grantee or other party thereto to be entered at length and alphabetically in the appropriate index. He shall also enter in the appropriate column the name of the city or town in which the land described in the deed or other instrument lies, if the same is therein disclosed, and, within a reasonable time after such deed or instrument has been recorded, he shall affix to such entry the number of the book and leaf or page where it is recorded.

Names to be entered in indexes in certain special cases. 1845, 205, § 3. 1856, 292, § 1. G. S. 17, §§ 98, 99. P. S. 24, § 24.

SECTION 27. When an instrument by which one person by authority of law transfers or conveys the real estate of another person is left for record, the register shall enter in the entry book and grantor index both the name of the person making such conveyance and that of the person whose estate has been so conveyed, if the latter name appears in such instrument, or, if it does not so appear, the register shall enter such person as "unknown" under the letter U. When a return of commissioners appointed to make partition of real estate is left for record, he shall enter in the entry book and in both the grantor and grantee indexes the names of all persons whose estates plainly appear to be affected by such return.

Classified copies of indexes. 1856, 292, § 2. 1857, 38, 277. G. S. 17, § 103. P. S. 24, § 25. 1896, 443, § 1. [1 Op. A. G. 308.]

SECTION 28. Each register, except for the county of Suffolk, shall annually, at the expense of the county, cause competent persons to make copies of the indexes to the instruments recorded during the preceding year, in which the grantors and grantees shall be classified by their respective surnames in alphabetical

order, and arranged under such surnames in the order in which the deeds and other conveyances to which they refer were left for record. He may also cause the Christian names of the grantors and grantees, as well as their surnames, to be arranged in alphabetical order in such lists. Such copies shall in other respects be in the form required for the indexes to the records.

New or printed indexes. 1856, 292, §§ 3, 4. G. S. 17, § 104. P. S. 24, § 26. 1896, 443, § 2.

SECTION 29. A register may, with the consent of the county commissioners, cause a competent person, at the expense of the county, to make copies of the indexes or new indexes to the records, or of any part thereof. Such copies may be printed at the expense of the county, and sold at a price not less than the cost of printing, paper and binding.

Estimates of expense of indexes. 1896, 443, §§ 3, 4.

SECTION 30. Each register, except for the county of Suffolk, shall annually, before the first day of January, file with the county commissioners an estimate in detail of the character, amount and cost of the indexing which, in his judgment, may be required for the ensuing year, and the county commissioners shall include in the estimates for county taxes so much thereof as in their judgment is necessary. The amount authorized by the general court may, under the direction of the register, be expended for the purposes specified in his original estimate, and shall be paid to the persons actually performing the work, on approval of the bills by the county commissioners.

Index commissioners in Suffolk county. 1878, 129. P. S. 24, § 27. 1901, 401.

SECTION 31. In the county of Suffolk the powers and duties exercised in other counties by the registers under the provisions of sections twenty-eight and twenty-nine shall be exercised by a board of three index commissioners, one of whom shall annually, in March, be appointed by a majority of the justices of the superior court, for a term of three years beginning with the first day of April following. The members of said board shall serve without pay. A commissioner may be removed by said justices for cause, and a vacancy shall be filled by them for the unexpired term.

Salaries of registers and assistant registers.

SECTION 32. Registers of deeds and assistant registers of deeds shall receive annual salaries as follows: —

P. S. 24, § 29. 1895, 493, § 1. [1 Op. A. G. 308.]

Barnstable.

For the county of Barnstable, the register, fifteen hundred dollars;

Berkshire.

For the Berkshire middle district, the register, fifteen hundred dollars; for the Berkshire northern district, the register, fifteen hundred dollars; for the Berkshire southern district, the register, six hundred dollars;

Bristol.

For the Bristol northern district, the register, two thousand dollars; for the Bristol southern district, the register, twenty-two hundred dollars, the assistant register, six hundred dollars; for the Fall River district, the register, twenty-two hundred dollars;

Dukes County. 1865, 114.

For the county of Dukes County, the register, six hundred dollars;

Essex.

For the Essex northern district, the register, seventeen hundred dollars; for the Essex southern district, the register, four thousand dollars, the assistant register, seventeen hundred dollars;

Franklin. For the county of Franklin, the register, fifteen hundred dollars;

Hampden. For the county of Hampden, the register, twenty-eight hundred dollars:

Hampshire. For the county of Hampshire, the register, sixteen hundred dollars:

Middlesex. 1898, 333. For the Middlesex northern district, the register, two thousand dollars; for the Middlesex southern district, the register, five thousand dollars, the assistant register, two thousand dollars;

Nantucket. 1866, 151. For the county of Nantucket, the register, six hundred dollars:

Norfolk. For the county of Norfolk, the register, three thousand dollars, the assistant register, sixteen hundred dollars;

Plymouth. For the county of Plymouth, the register, twenty-six hundred dollars, the assistant register, one thousand dollars;

Suffolk. For the county of Suffolk, the register, fifty-five hundred dollars, the assistant register, three thousand dollars;

Worcester. For the Worcester district, the register, three thousand dollars, the assistant register, twelve hundred dollars; for the Worcester northern district the register, eighteen hundred dollars.

Salaries payable monthly. Said salaries shall be paid in monthly instalments by the respective counties and shall be at the same rates for any part of a year.

Allowances for clerical assistance, etc. 1895, 493, § 2. 1896, 172. SECTION 33. Registers shall be allowed for assistant registers, if no salary is fixed by law, and for clerical assistance, upon the sworn certificate of said registers, filed with the county treasurer, that the work was actually performed and was necessary, and specifying the amount of such work or the time occupied therein and the names of the persons by whom the work was performed, such reasonable amount designated in said certificate as shall be approved by the county commissioners, which shall be paid from the county treasury to the persons performing said work.

Accounts and fees. 1895, 493, § 3. SECTION 34. Each register of deeds shall enter in a cash book, which shall be the property of the county, all fees received by him for all official acts and services; and he shall, on the first day of each month, pay over to the county treasurer or other officer entitled to receive the same all fees received during the preceding month, and shall render to him an account under oath of the same.

CHAPTER 23.

OF SHERIFFS.

Oath and bond. 1699–1700, 9, § 1. 1783, 44, § 1. 1794, 53, § 2. R. S. 14, § 58. 1853, 69. G. S. 17, § 51. P. S. 25, § 1. 1 Met. 34. SECTION 1. A sheriff, before performing any official act himself or by his deputy, shall be sworn and shall give to the treasurer and receiver general a bond with such sureties as the superior court shall order and approve, conditioned faithfully to perform his own duties and be responsible for the official acts of his deputies. 15 Gray, 427, 516.

Appointment of deputies. 1783, 44, § 1. SECTION 2. A sheriff may appoint deputies, who shall be sworn before performing any official act.

R. S. 14, § 59. G. S. 17, § 53. P. S. 25, § 2.

SECTION 3. He shall appoint within his county a special sheriff, who shall be sworn and shall give such bond to the sheriff for the faithful performance of his duties as he may require. Upon his appointment and qualification, the sheriff appointing him shall send a written notice of the appointment, giving the name and residence of the appointee, to the secretary of the commonwealth, who shall record such notice in a book to be kept by him for the purpose.

Appointment of special sheriffs.
1880, 167, § 1.
1881, 58.
P. S. 25, § 3.
21 Pick. 555.
1 Met. 508.

SECTION 4. A special sheriff shall have the authority of a deputy sheriff and if, by reason of illness, absence, interest or other cause, the sheriff is unable to perform the duties of his office and they cannot be performed by any of his deputies, they shall be performed by the special sheriff; and compensation therefor, if not otherwise provided for, shall be paid by the sheriff.

Duties of special sheriffs.
1880, 167, § 1.
P. S. 25, § 4.

SECTION 5. During a vacancy in the office of sheriff, the special sheriff, first giving bond as required of the sheriff, shall perform all the duties of the sheriff; and the deputies of the sheriff vacating the office shall continue to have and exercise the power of deputy sheriffs.

Deputy sheriffs to continue to act under special sheriffs.
1877, 200, § 23.
1880, 167, § 2.
P. S. 25, § 5.

SECTION 6. If a surety upon the official bond of a sheriff, or his heirs, executor or administrator applies to the superior court to be discharged from further liability thereon, the court, after notice to the sheriff, shall require him to give a new bond to the satisfaction of the court, within such time as it may order. Upon such new bond being given, such surety or his heirs, executor or administrator shall be discharged from liability for subsequent breaches of said bond.

Discharge of sureties on sheriff's bonds.
1824, 23, § 1.
R. S. 14, § 62.
G. S. 17, § 55.
P. S. 25, § 7.

SECTION 7. A sheriff who neglects or refuses to give bond as required in this chapter shall forfeit one hundred and fifty dollars for each month's neglect, and the attorney general shall prosecute for the same. The superior court shall forthwith certify the fact of such neglect or refusal to the governor and council and to the attorney general, and, unless the sheriff satisfies the governor and council that there was reasonable cause for such neglect and gives security to their satisfaction within twenty days after the receipt of such certificate, the governor, with the advice and consent of the council, shall remove him from office.

Penalty for neglect to give bond.
1794, 53, § 2.
1824, 23, § 2.
R. S. 14, § 63.
G. S. 17, § 56.
P. S. 25, § 8.

SECTION 8. A person who has recovered judgment against a sheriff or his executor or administrator, for a cause or injury which constitutes a breach of the condition of his official bond, or who has obtained an allowance of such claim against his estate, if settled as an insolvent estate, may, at his own expense, prosecute a suit on such bond in the name of the treasurer and receiver general. The writ shall be indorsed by such person or his attorney and the proceedings shall be the same as in a suit by a creditor on an administration bond.

Suits on bonds of sheriffs.
1805, 99, § 1.
R.S. 14, §§ 64,65.
G. S. 17, § 57.
P. S. 25, § 9.
17 Mass. 567.
13 Gray, 384.

SECTION 9. The treasurer and receiver general shall deliver an attested copy of the official bond of any sheriff to any person applying and paying therefor; and such copy shall be received as compe-

Treasurer and receiver general to furnish copies of sheriffs' bonds.

1805, 99, § 3. R. S. 14, § 67. G. S. 17, § 59. P. S. 25, § 11.

tent evidence in a case relating to the bond; but if the execution of the bond is disputed, the court may require the treasurer and receiver general to produce the original in court.

Sheriffs not to be arrested. Executions to run against their property only. 1783, 44, § 4. R.S. 14, §§ 75-76. G.S. 17, §§ 60-62. P.S. 25, §§ 12-14.

SECTION 10. A sheriff shall not be arrested upon mesne process or execution in a civil action. If judgment is rendered against him, either in his official or private capacity, the execution shall issue against his goods, chattels, and land, but not against his body. If such execution is returned unsatisfied, the creditor may file with the governor and council an attested copy of the execution and return, and give notice thereof to the sheriff. If he does not, within thirty days after such notice, pay to the creditor the whole amount of his debt, with reasonable costs of the copies and notice, the governor, with the advice and consent of the council, shall remove him from office. After such removal and the appointment of another sheriff, the clerk of the court from which any execution against him has issued, upon the return thereof unsatisfied, shall issue alias executions in common form, as well against the body as against the goods, chattels and land.

Defaults of deputies after death of sheriff. 1808, 46, § 2. R. S. 14, § 77.

SECTION 11. A default, malfeasance or misfeasance in office of a deputy sheriff or jailer, after the death, removal or resignation of the sheriff by whom he was appointed, shall be a breach of the bond of such sheriff. G. S. 17, § 63. P. S. 25, § 15. 7 Mass. 505. 13 Mass. 295.

Sheriffs and their deputies may serve precepts. 1783, 44, § 1. 1808, 19, § 2. 1817, 13. 1824, 106, § 2. R. S. 14, §§ 68, 69, 71. G. S. 17, § 65. P. S. 25, § 16.

SECTION 12. Sheriffs and their deputies shall serve and execute, within their counties, all precepts lawfully issued to them; may serve writs or other processes in cases wherein a county, city, town, parish, religious society or fire or other district is a party or interested, although they are members of such corporations; and may summon and attend juries for assessing damages sustained by locating turnpike roads and railroads, if they are not members of the turnpike or railroad corporation. 4 Pick. 405. 130 Mass. 113.

—may serve demands, etc. G. S. 17, § 66. P. S. 25, § 17.

SECTION 13. They may serve by copy, by them attested, all demands, notices and citations, and their returns of service thereof shall be prima facie evidence; but the same may be served by other persons. 135 Mass. 191.

—may require aid. C. L. 103, § 6. 1698, 20, § 1. 1795, 68, § 1. R. S. 14, § 72. G. S. 17, § 67. P. S. 25, § 18.

SECTION 14. They may require suitable aid in the execution of their office in a criminal case, in the preservation of the peace, in the apprehending or securing of a person for a breach of the peace and in cases of escape or rescue of persons arrested upon civil process. 1 Gray, 58.

—may serve writs after removal. 1783, 44, § 4. 1808, 46, § 3. R. S. 14, § 70. G. S. 17, § 68. P. S. 25, § 19. 13 Pick. 477.

SECTION 15. They may execute precepts in their hands at the time of their removal from office; and, upon a vacancy in the office of sheriff, every deputy in office under him, having a writ or precept in his hands, shall have the same authority, to serve, execute, and return the same, as if the sheriff had continued in office. 120 Mass. 143.

Service of writs for and against sheriffs. 1877, 200, § 22.

SECTION 16. A writ or other precept in which a sheriff is a party shall be served or executed by the sheriff or a deputy sheriff of an adjoining county. 1881, 160. P. S. 25, § 20. 1885, 75.

SECTION 17. Sheriffs shall attend all sessions of the supreme judicial court and the superior court in their respective counties, and shall attend meetings of the county commissioners when required by them.

Sheriffs to attend courts, etc.
1859, 257, § 3.
G. S. 17, § 69.
P. S. 25, § 21.

SECTION 18. Sheriffs shall receive annual salaries, payable by their counties, as follows: the sheriff of Barnstable, eight hundred dollars; of Berkshire, sixteen hundred dollars; of Bristol, three thousand dollars; of Dukes County, three hundred dollars; of Essex, twenty-five hundred dollars; of Franklin, eight hundred dollars; of Hampden, fifteen hundred dollars; of Hampshire, one thousand dollars; of Middlesex, three thousand dollars; of Nantucket, three hundred dollars; of Norfolk, eighteen hundred dollars; of Plymouth, nine hundred dollars; of Suffolk, three thousand dollars; of Worcester, twenty-five hundred dollars.

The sheriffs of the counties of Dukes County and Nantucket may also retain to their own use the fees received by them for the service of process, and the sheriff of the county of Bristol shall be allowed his necessary travelling expenses, not exceeding four hundred dollars a year, when attending to his official duties. 110 Mass. 423.

Salaries of sheriffs.
1699–1700, 9, § 2.
1830, 110, §§ 3, 4.
R. S. 14, § 89.
1843, 75.
1859, 257, § 1.
G. S. 17, § 70.
1861, 114.
1866, 298, § 11.
1867, 345.
1872, 350.
1875, 137.
1879, 269.
1881, 158.
P. S. 25, § 22.
1884, 209.
1886, 28.
1887, 58, 164.
1888, 95, 228, 244.
1889, 38.
1891, 154.
1894, 153, 415.
1897, 454.
1898, 324.
1900, 295.

SECTION 19. A sheriff who personally performs the duties of jailer or master of the house of correction may receive, in addition to his salary as sheriff, the compensation established by law for such services; but not more than one thousand dollars a year.

Extra compensation in certain cases.
1860, 92.
P. S. 25, § 23.

SECTION 20. The sheriffs shall keep an account of all fees and money received by virtue of their offices, and shall, annually on or before the fifteenth day of December, render to the treasurers of their counties an account thereof under oath and, except as provided in section eighteen, pay over to them all such fees and money.

Sheriffs to account for fees, etc.
1830, 110, § 2.
R. S. 14, § 90.
1859, 257, § 2.
G. S. 17, § 71.
P. S. 25, § 24.

SECTION 21. They shall annually, on or before the fifteenth day of October, return to the secretary of the commonwealth on blanks provided by him an account, under oath, of all money received by them for the year ending on the preceding thirtieth day of September, designating the amounts received from the county treasurer and from all other sources, and specifying the amounts received by them for fees in civil and criminal processes. They shall also return the number of days they have attended upon the courts and upon the county commissioners, and also the number of days when they have attended upon more than one of said tribunals at the same time. If a sheriff neglects to make such return, he shall forfeit two hundred dollars.

Annual return.
1843, 75, §§ 4, 5.
1850, 31.
1859, 257.
G.S. 17, §§ 72, 73.
P.S. 25, §§ 25, 26.

CHAPTER 24.

OF MEDICAL EXAMINERS.

SECTION 1. The governor, with the advice and consent of the council, shall appoint for a term of seven years, able and discreet men, learned in the science of medicine, to be medical examiners and associate medical examiners in each county. P. S. 26, §§ 1, 3, 4. 1898, 318, § 1.

Appointment of medical examiners.
1877, 200, §§ 2, 4, 6.
1880, 59, § 2.
1881, 295.

Number to be appointed in each county.

SECTION 2. The number of medical examiners and associate medical examiners shall be as follows: —

1877, 200, §§ 2, 6. P. S. 26, § 2. 1898, 318, § 1.

Barnstable county. 1884, 127.

In the county of Barnstable, one in each of the three following districts: district one, composed of the towns of Harwich, Dennis, Yarmouth, Brewster, Chatham, Orleans and Eastham; district two, of the towns of Barnstable, Bourne, Sandwich, Mashpee and Falmouth; and district three, of the towns of Provincetown, Truro and Wellfleet.

Berkshire county.

In the county of Berkshire, one in each of the four following districts: district one, composed of the city of North Adams and the towns of Williamstown, Clarksburg, Adams, Florida, Savoy, New Ashford and Cheshire; district two, of the city of Pittsfield and the towns of Lanesborough, Windsor, Dalton, Hinsdale, Peru and Hancock; district three, of the towns of Richmond, Lenox, Washington, Becket, Lee, Stockbridge, Tyringham and Otis; and district four, of the towns of West Stockbridge, Alford, Great Barrington, Monterey, Sandisfield, New Marlborough, Sheffield, Egremont and Mount Washington.

Bristol county. 1887, 412.

In the county of Bristol, one in each of the four following districts: district one, composed of the towns of Attleborough, North Attleborough, Seekonk, Norton, Mansfield and Rehoboth; district two, of the city of Taunton and the towns of Raynham, Easton, Berkley and Dighton; district three, of the city of Fall River and the towns of Somerset, Swansea, Freetown and Westport; and district four, of the city of New Bedford and the towns of Dartmouth, Fairhaven and Acushnet.

Dukes County. 1892, 216.

In the county of Dukes County, one in each of the three following districts: district one, composed of the towns of Edgartown and Cottage City; district two, of the towns of Tisbury, West Tisbury and Gosnold; and district three, of the towns of Chilmark and Gay Head.

Essex county. 1896, 365.

In the county of Essex, one in each of the ten following districts: district one, composed of the city of Gloucester and the town of Rockport; district two, of the towns of Ipswich, Rowley, Hamilton and Essex; district three, of the city of Newburyport and the towns of Newbury, West Newbury, Amesbury and Salisbury; district four, of the city of Haverhill and the town of Merrimac; district five, of the city of Lawrence and the towns of Methuen, Andover and North Andover; district six, of the towns of Georgetown, Boxford, Topsfield and Groveland; district seven, of the city of Beverly and the towns of Wenham and Manchester; district eight, of the towns of Peabody, Danvers, Middleton and Lynnfield; district nine, of the city of Lynn and the towns of Saugus, Nahant and Swampscott; and district ten, of the city of Salem and the town of Marblehead.

Franklin county. 1884, 321.

In the county of Franklin, one in each of the three following districts: the northern district, composed of the towns of Orange, Warwick, New Salem and Wendell; the eastern district, composed of the towns of Bernardston, Erving, Gill, Greenfield, Leverett, Montague, Northfield, Shutesbury and Sunderland; and the western district, composed of the towns of Ashfield, Buckland, Charlemont, Colrain, Conway, Deerfield, Hawley, Heath, Leyden, Monroe, Rowe, Shelburne and Whately.

In the county of Hampden, one in each of the four following districts: district one, composed of the towns of Brimfield, Holland, Palmer, Monson and Wales; district two, of the cities of Springfield and Chicopee and the towns of Agawam, East Longmeadow, Longmeadow, Ludlow, West Springfield, Wilbraham and Hampden; district three, of the city of Holyoke; and district four, of the towns of Blandford, Chester, Granville, Montgomery, Russell, Southwick, Tolland and Westfield. Hampden county. 1890, 189. 1894, 418.

In the county of Hampshire, one in each of the four following districts: district one, composed of the city of Northampton and the towns of Chesterfield, Cummington, Goshen, Hatfield, Plainfield and Williamsburgh; district two, of the towns of Easthampton, Huntington, Middlefield, Southampton, Westhampton and Worthington; district three, of the towns of Amherst, Granby, Hadley, Pelham and South Hadley; and district four, of the towns of Belchertown, Enfield, Greenwich, Prescott and Ware. Hampshire county. 1883, 250.

In the county of Middlesex, one in each of the ten following districts: district one, composed of the city of Cambridge and the towns of Belmont and Arlington; district two, of the cities of Malden, Somerville, Everett and Medford; district three, of the city of Melrose and the towns of Stoneham, Wakefield, Wilmington, Reading and North Reading; district four, of the city of Woburn and the towns of Winchester, Lexington and Burlington; district five, of the city of Lowell and the towns of Dracut, Tewksbury, Billerica, Chelmsford, and Tyngsborough; district six, of the towns of Concord, Carlisle, Bedford, Lincoln, Littleton, Acton and Boxborough; district seven, of the cities of Newton and Waltham and the towns of Watertown and Weston; district eight, of the towns of Framingham, Wayland, Natick, Sherborn, Holliston, Hopkinton and Ashland; district nine, of the city of Marlborough and the towns of Hudson, Maynard, Stow and Sudbury; and district ten, of the towns of Ayer, Groton, Westford, Dunstable, Pepperell, Shirley, Townsend and Ashby. Middlesex county. 1884, 309. 1888, 374. 1890, 320. 1892, 324, 355. 1899, 162.

In the county of Nantucket, one. Nantucket county.

In the county of Norfolk, one in each of the nine following districts: district one, composed of the towns of Dedham, Needham, Wellesley, Westwood, Norwood and Dover; district two, of the towns of Hyde Park and Milton; district three, of the city of Quincy and the town of Randolph; district four, of the towns of Weymouth, Braintree and Holbrook; district five, of the towns of Avon, Stoughton, Canton, Walpole and Sharon; district six, of the towns of Franklin, Foxborough and Wrentham; district seven, of the towns of Medway, Medfield, Millis, Norfolk and Bellingham; district eight, of the town of Brookline; and district nine, of the town of Cohasset. Norfolk county. 1885, 37. 1888, 47, 347. 1897, 226.

In the county of Plymouth, one in each of the five following districts: district one, composed of the city of Brockton and the towns of West Bridgewater, East Bridgewater, Bridgewater and Whitman; district two, of the towns of Abington, Rockland, Hanover, Hanson, Norwell and Pembroke; district three, of the towns of Plymouth, Halifax, Kingston, Plympton and Duxbury; district four, of the towns of Middleborough, Wareham, Mattapoisett, Carver, Rochester, Lakeville and Marion; and district five, of the towns of Hingham, Hull, Scituate and Marshfield. Plymouth county. 1886, 48, 74. 1888, 64.

Suffolk county.

In the county of Suffolk, two and one associate examiner.

Worcester county. 1886, 126. 1901, 173.

In the county of Worcester, one in each of the eleven following districts: district one, composed of the towns of Athol, Petersham, Phillipston and Royalston; district two, of the towns of Gardner, Templeton and Winchendon; district three, of the city of Fitchburg and the towns of Ashburnham, Leominster, Lunenburg, Princeton and Westminster; district four, of the towns of Berlin, Bolton, Boylston, Clinton, Harvard, Lancaster, Northborough and Sterling; district five, of the towns of Grafton, Southborough and Westborough; district six, of the towns of Hopedale, Mendon, Milford and Upton; district seven, of the towns of Blackstone, Douglas, Northbridge and Uxbridge; district eight, of the towns of Charlton, Dudley, Oxford, Southbridge, Sturbridge and Webster; district nine, of the towns of Brookfield, North Brookfield, Spencer, Warren and West Brookfield; district ten, of the towns of Barre, Dana, Hubbardston, Hardwick, New Braintree, Oakham and Rutland; and district eleven, of the city of Worcester and the towns of Auburn, Holden, Leicester, Millbury, Paxton, Shrewsbury, Sutton and West Boylston.

Duties of associate examiner. 1880, 59, § 1. 1881, 295. P. S. 26, § 3. 1898, 318, § 2.

SECTION 3. The associate medical examiner for the county of Suffolk shall, at the request of either of the medical examiners for the county, perform the duties and have the powers of a medical examiner. In any year, each medical examiner may require him to serve one month. The associate medical examiners in the other counties shall in the absence of the medical examiners or in case of their inability to perform their duties, perform, in their respective districts, all the duties of medical examiners.

Official bonds. 1877, 200, § 5. 1880, 59, § 2. P. S. 26, § 5.

SECTION 4. Each medical examiner and associate medical examiner shall, before entering upon the duties of his office, be sworn and give bond for the faithful performance thereof, in the sum of five thousand dollars, to the treasurer of the county, with sureties to be approved by him. If he fails for thirty days after appointment to give such bond, his appointment shall be void.

Discharge of surety on bond. R. S. 14, § 95. G. S. 17, § 76. 1877, 200, § 24. P. S. 26, § 7.

SECTION 5. A surety on such bond, his heirs, executor or administrator may apply to the superior court to be discharged from further liability thereon, whereupon the proceedings shall be the same as are prescribed in section six of chapter twenty-three.

Breach of condition of bond. R. S. 14, § 96. G. S. 17, § 77. 1877, 200, § 24. P. S. 26, § 8.

SECTION 6. Upon a breach of the condition of such bond to the injury of any person, the obligor may be removed from office, and actions may be brought upon such bonds in like manner as upon the bond of a sheriff.

Salaries, fees, etc. 1877, 200, § 3. 1881, 295. P. S. 26, § 9. 1885, 379, § 1. 1890, 213. 1892, 286.

SECTION 7. In the county of Suffolk, each medical examiner shall receive from the county an annual salary of four thousand dollars, and the associate medical examiner, a salary of six hundred and sixty-six dollars; but if the associate medical examiner serves in any year more than two months, he shall, for such additional service, be paid at the same rate to be deducted from the salary of the medical examiner at whose request he serves. Medical examiners and associate medical examiners in other counties shall receive

fees as follows: for a view without an autopsy, five dollars; for a view and autopsy, thirty dollars; and for travel, ten cents a mile to and from the place of view.

Duties of examiners. 1877, 200, §§ 7, 9. P.S. 26, §§ 10, 12.

SECTION 8. Medical examiners shall, in all cases, certify to the city or town clerk or to the city registrar in the place where the deceased died, his name and residence, if known, otherwise a description of such person as full as may be, with the cause and manner of his death, and shall make examination upon the view of the dead bodies of only such persons as are supposed to have come to their death by violence.

When autopsy shall be made. 1877, 200, § 8. P. S. 26, § 11. 1885, 379, § 2. 1890, 440, § 9. 128 Mass. 422. 132 Mass. 261.

SECTION 9. If a medical examiner has notice that there is within his county the body of a person supposed to have come to his death by violence, he shall forthwith go to the place where such body lies, and take charge of the same; and if, on view thereof and personal inquiry into the cause and manner of death, he considers a further examination necessary, he shall, upon being thereto authorized in writing by the district attorney, mayor or selectmen of the district, city or town in which such body lies, make an autopsy in the presence of two or more discreet persons, whose attendance he may compel by subpœna. Before making such autopsy, he shall call the attention of the witnesses to the position and appearance of the body. He shall then and there carefully record every fact and circumstance tending to show the condition of the body and the cause and manner of death, with the names and addresses of said witnesses, which record he shall subscribe. If a medical examiner or associate medical examiner considers it necessary to have a physician present as a witness at an autopsy, he shall be paid five dollars for his services. Other witnesses, except officers named in section forty-two of chapter two hundred and four, shall be allowed two dollars each.

Report of autopsy to district attorney. 1877, 200, § 9. P. S. 26, § 12. 1885, 379, § 7. 1887, 310, § 2.

SECTION 10. He shall forthwith file with the district attorney of his district a report of each autopsy and view and of his personal inquiries, with a certificate that, in his judgment, the manner and cause of death could not be ascertained by view and inquiry and that an autopsy was necessary. The district attorney, if satisfied that an autopsy was necessary, shall so certify to the county commissioners having jurisdiction over the place in which the autopsy was held or, in the county of Suffolk, to the auditor of Boston. If upon such view, personal inquiry or autopsy, the medical examiner is of opinion that the death was caused by violence, he shall at once notify the district attorney and a justice of the police, district or municipal court or trial justice having jurisdiction over the place in which the body was found, and shall file an attested copy of the record of his autopsy in such court or with such justice and with the district attorney.

When inquest shall be held. 1877, 200, § 10. P. S. 26, § 13. 1894, 535, § 5. 1897, 376, § 2.

SECTION 11. The court or trial justice shall thereupon hold an inquest, from which all persons not required by law to be present may be excluded, and the witnesses may be kept separate, so that they cannot converse with each other until they have been examined. The district attorney, or some person designated by

him, may attend the inquest and examine the witnesses. An inquest shall be held in all cases of death by accident upon a railroad, and the court or justice holding such inquest or an inquest in case of death by accident upon a street railway shall give seasonable notice of the time and place thereof to the board of railroad commissioners. The attorney general or the district attorney may direct an inquest to be held in the case of death by any casualty.

Jurisdiction extended. 1899, 207.

SECTION 12. If it appears that the place in which the body was found is without the limits of the judicial district of the court or the territorial jurisdiction of the trial justice to which or to whom the notice required by the provisions of section ten has been given by the medical examiner, such court or trial justice shall nevertheless proceed with the inquest and have continuous and exclusive jurisdiction thereof if said place is within the commonwealth and within fifty rods of the nearest point in the boundary line of such district or territory, unless a similar but prior notice relative to the same body shall have been issued by a medical examiner for a county adjoining such district or territory at the point aforesaid.

Appointment of officer to investigate. 1898, 204, § 2.

SECTION 13. If an inquest is to be held by a police, district or municipal court, the court may appoint an officer qualified to serve criminal process to investigate the case and to summon the witnesses, and may allow him additional compensation therefor, which shall be paid in like manner as the fees of officers in criminal cases.

Report of evidence at certain inquests. 1888, 365. 1889, 154. 1890, 440, § 9. 1896, 302.

SECTION 14. If a magistrate has reason to believe that an inquest to be held by him relates to the death by accident of a passenger or employee upon a railroad or of a traveller upon a public or private way at a railroad crossing, or to a death by accident connected with the operation of a street railway, he shall cause a verbatim report of the evidence to be made and sworn to by the person making it, and the report and the bill for services, after examination and approval in writing by such magistrate, shall be forwarded forthwith to the board of railroad commissioners. Such bill when approved by said board shall be forwarded to the auditor of accounts and be paid by the commonwealth, assessed on the several corporations owning or operating the railroad or street railway on which the accident occurred and shall be collected in the manner provided in section ten of chapter one hundred and eleven. The magistrate may, in his discretion, refuse fees to witnesses in the employ of the company upon whose railroad the accident occurred.

Report of magistrate. 1877, 200, § 12. P. S. 26, § 15. 134 Mass. 223.

SECTION 15. The magistrate shall report in writing when, where and by what means the person came to his death, his name, if known, and all material circumstances attending his death; and if it appears that the unlawful act of any other person contributed to the death, he shall further state the name of such person, if known to him; and he shall file such report in the superior court in the county in which the inquest is held.

Witnesses may be bound over. 1877, 200, § 13. P. S. 26, § 16.

SECTION 16. If the magistrate finds that murder, manslaughter or an assault has been committed, he may bind over, as in criminal

prosecutions, such witnesses as he considers necessary, or as the district attorney may designate, to appear and testify at the court having jurisdiction over such crime.

Arrest of person charged with commission of crime. 1877, 200, § 14. P. S. 26, § 17.

SECTION 17. If a person charged by the report with the commission of a crime is not in custody, the magistrate shall forthwith issue process for his apprehension, returnable before any court or magistrate having jurisdiction of the case.

Inquest may be ordered. 1877, 200, § 15. P. S. 26, § 18.

SECTION 18. The attorney general or the district attorney may, notwithstanding the medical examiner's report that a death was not caused by violence, direct an inquest to be held.

Chemist may aid in examination of body. 1877, 200, § 16. P. S. 26, § 19.

SECTION 19. The medical examiner may, if he considers it necessary, employ a chemist to aid in the examination of the body or of substances supposed to have caused or contributed to the death, who shall be entitled to such compensation as the medical examiner certifies to be just and reasonable. A clerk may be employed to reduce to writing the results of a medical examination or autopsy, and shall be allowed for his services two dollars a day.

Use of embalming fluid restricted. 1892, 152.

SECTION 20. No embalming fluid, or any substitute therefor, shall be injected into the body of any person supposed to have come to his death by violence, until a permit in writing, signed by the medical examiner, has first been obtained.

Burial of body. 1877, 200, § 17. P. S. 26, § 20. 1887, 310, § 1.

SECTION 21. After an autopsy or a view or examination without an autopsy, the medical examiner shall deliver the body, upon application, to the husband or wife, the next of kin, or to any friend of the deceased, who shall be entitled to priority in the order named. If the body is unidentified or unclaimed for forty-eight hours after the view thereof, the medical examiner shall deliver it to the overseers of the poor of the city or town in which it is found, who shall decently bury it in accordance with the provisions of section twenty of chapter eighty-one.

View of body intended for cremation. 1885, 265, § 4.

SECTION 22. Medical examiners within their respective districts shall, upon application and payment or tender of a fee of five dollars, view and make personal inquiry concerning a body intended for cremation.

Compensation for bringing to land body found in water. 1877, 200, § 18. P. S. 26, § 21.

SECTION 23. If services are rendered in bringing to land the body of a person found in any of the harbors, rivers, or waters of the commonwealth, the medical examiner may allow reasonable compensation therefor, but this provision shall not entitle any person to compensation for services rendered in searching for a dead body.

Money, etc., found upon or near body. 1877, 200, § 19. P. S. 26, § 22. 13 Allen, 465.

SECTION 24. The medical examiner shall take charge of any money or other personal property of the deceased, found upon or near the body, and deliver it to the person entitled to its custody or possession or, if not claimed by him within sixty days, then to a public administrator.

Penalty on examiner for neglecting to give up property. 1877, 200, § 20. P. S. 26, § 23.

SECTION 25. A medical examiner who fraudulently neglects or refuses to deliver such property to such person within three days after demand upon him therefor shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two years.

Account of expenses and fees to be rendered, audited, etc. 1877, 200, § 21. P. S. 26, § 24. 1885, 379, § 7. 1887, 310, § 2.

SECTION 26. Every medical examiner shall return an account of the expenses of each view or autopsy, including his fees, to the county commissioners having jurisdiction over the place in which the examination or view is held, or in the county of Suffolk to the auditor of Boston, and shall annex to his return the written authority under which the autopsy was made. Such commissioners or auditor shall audit such accounts, and certify to the treasurer of the county what items therein are just and reasonable, which shall be paid by him to the person entitled to receive the same. The commissioners shall not certify for payment any fee for an autopsy until the certificate of the district attorney required by the provisions of section ten has been filed with them.

Returns to secretary of commonwealth. Penalty. 1885, 379, §§ 3, 4.

SECTION 27. Every medical examiner shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of all deaths, the cause of which he has investigated during the preceding calendar year and, within sixty days after the expiration of his term of office, he shall make like returns for so much of the year as he was in office. For a refusal or neglect to make such returns he shall forfeit not less than ten nor more than fifty dollars.

Fees of trial justices for inquests. 1878, 235. P. S. 26, § 25. 1885, 40.

SECTION 28. The fees of trial justices shall be as follows: for filing an attested copy of the record of an autopsy, fifty cents; for each subpœna issued, ten cents; for each day's attendance in holding the inquest, five dollars; for the recognizance of witnesses, twenty cents; and for drawing up and filing a report in the superior court, five dollars. Special justices of police, district or municipal courts, except those entitled to compensation other than that provided by section sixty-nine of chapter one hundred and sixty, shall receive the same fees as trial justices. Said fees, having been audited by the district attorney, shall be paid by the county.

Fees for records and returns. 1885, 379, § 4.

SECTION 29. Each medical examiner, including the medical examiners in the county of Suffolk, shall receive from the commonwealth twenty cents for each of the first twenty deaths recorded and returned by him in any year as above provided, and ten cents for each additional death so recorded and returned, as certified by the secretary of the commonwealth.

Record books to be provided. 1885, 379, §§ 5, 6.

SECTION 30. The secretary shall, at the expense of the commonwealth, prepare and furnish to the medical examiners blank record books, and blank forms for returns and shall cause the returns for each year to be bound together in one volume with indexes; and prepare therefrom such tables as will render them of utility, and shall make report thereof annually to the general court in connection with the report required by section twenty-two of chapter twenty-nine.

TITLE VII.

OF TOWNS AND CITIES.

CHAPTER 25. — Of Towns and Town Officers.
CHAPTER 26. — Of Cities.
CHAPTER 27. — Of Municipal Indebtedness.
CHAPTER 28. — Of Public Parks, Playgrounds and the Public Domain.
CHAPTER 29. — Of the Return and Registry of Births, Marriages and Deaths.
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CHAPTER 31. — Of Watch and Ward.
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CHAPTER 34. — Of the Manufacture and Distribution of Gas and Electricity by Cities and Towns.

CHAPTER 25.

OF TOWNS AND TOWN OFFICERS.

SECTIONS 1–58. — Powers and Duties of Towns.
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POWERS AND DUTIES OF TOWNS.

Seaward boundary of towns.

SECTION 1. The boundary line of towns bordering upon the sea shall coincide with the line of the commonwealth as defined in section three of chapter one.

1881, 196, § 1. P. S. 27, § 2. 152 Mass. 230. 139 U. S. 240.

Perambulation, etc., of town lines.
C. L. 10, § 1.
1692-3, 28, § 1.
1785, 75, § 1.
R. S. 15, § 2.
G. S. 18, § 3.
P. S. 27, § 3.

SECTION 2. The town lines shall be perambulated and run and the marks renewed, once in every five years, by two or more of the selectmen of each town or by substitutes appointed by them in writing, and the proceedings shall be recorded in the records of each town. 15 Pick. 44. 2 Cush. 406. 100 Mass. 62. 102 Mass. 151.

— notice of, to adjoining towns.
1692-3, 28, § 1.
1734-5, 7.
1785, 75, § 1.
R. S. 15, § 3.
G. S. 18, § 4.

SECTION 3. Ten days before a perambulation, the selectmen of the most ancient of the contiguous towns shall give notice in writing to the selectmen of the adjoining town of the time and place of meeting therefor; and selectmen who neglect to give such notice or to attend personally or by their substitutes shall severally forfeit twenty dollars. P. S. 27, § 4.

Monuments to be erected, except, etc.
C. L. 10, § 1.
1826, 117, § 1.
R. S. 15, § 4.
G. S. 18, § 5.
1861, 84.
P. S. 27, § 5.

SECTION 4. The selectmen of the contiguous towns shall, at the joint and equal expense of such towns, erect permanent stone monuments at every angle of their respective boundary lines and wherever a highway crosses such lines, unless such monument, two feet high from the ground, already exists or unless such lines are bounded by the sea or by a permanent stream. The monuments shall be well set in the ground, at least four feet high from its surface, and shall have the initial letters of the respective names of such towns legibly cut thereon.

Perambulations of towns adjoining other states.
1826, 117, § 2.
R. S. 15, § 6.
G. S. 18, § 6.
P. S. 27, § 6.

SECTION 5. The selectmen of towns bordering on another state, if the lines between the states have been established, shall once in every five years give notice to the selectmen or other proper officers of adjoining towns in the other state of their intention to perambulate such lines. If such proposals are accepted, a perambulation shall be made as above provided. No bound erected by this commonwealth and an adjoining state shall be removed by such selectmen or other officers.

Penalty.
1826, 117, § 3.
R. S. 15, §§ 4-7.
G. S. 18, § 7.
P. S. 27, § 7.

SECTION 6. A selectman who refuses or neglects to perform any duty required of him by the two preceding sections shall forfeit twenty dollars.

Changes in boundary of contiguous towns.
1888, 336, § 1.
1901, 469, § 1.

SECTION 7. The board of harbor and land commissioners may with the concurrence of towns, at meetings called for the purpose, propose changes, by straightening or otherwise, in the boundary lines of contiguous towns. Such proposed changes shall be submitted to the next succeeding general court, and if ratified and accepted by it, said commission shall locate and define such changes by determining by triangulation the position of each angle and corner in such new boundary line; and the selectmen of such contiguous towns shall thereafter place such monuments at the new points determined, and place such marks on them, in addition to initials, as the commissioners may prescribe and in the manner required by section four. Monuments marking angles and corners in town boundaries, the position of which has not been changed, shall be re-marked in the manner indicated by said commissioners so as to establish a uniform system of designating the angles and corners of town boundary lines.

Plan of boundary formed by

SECTION 8. If the boundary line between towns is formed wholly or partly by a stream or by a highway, a survey and plan of

such stream or highway shall be made by said commissioners, based on the triangulation common to the other town boundary lines, and the plan shall be filed in the office of said commissioners. stream or highway. 1888, 336, § 2.

SECTION 9. The triangulation points established by said commissioners shall be regarded as a part of the evidence of the location of town boundary lines, and a description of the position and marks of such points shall be communicated in writing by said commissioners to the selectmen of the towns in which such points are located, and shall be filed with the perambulation records of such towns. Triangulation points to be evidence of location of lines. 1888, 336, § 3.

SECTION 10. No person, except as hereinafter provided, shall remove, obliterate or cover up any monument or mark designating a boundary line made under the provisions of the three preceding sections. If a person desires permission to remove, obliterate or cover up any such monument or mark, he shall apply in writing to the county commissioners of the county in which said monument is wholly or partly situated, who may grant such permission, first making provision for preserving the exact location of the original boundary or mark by causing proper witness marks to be set up, or other means taken, which shall, with proper designation and measurement, indicate the position of the original mark or monument. The commissioners shall cause a full description and designation of such witness marks and monuments so made and set up to be recorded in the office of the town clerk of the contiguous towns and a copy of such description to be forwarded to the secretary of the commonwealth. Obliteration of monuments forbidden, etc. 1888, 336, § 4.

SECTION 11. A person who violates the provisions of the preceding section, or who wilfully or maliciously disturbs or injures the monuments or marks aforesaid shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than six months. Penalties. 1888, 336, § 5.

SECTION 12. A town may in its corporate capacity sue and be sued by its name and may appoint necessary agents therefor. Towns may sue and be sued, etc. 1694-5, 15, §§ 1, 2.

1783, 39, § 4. R. S. 15, § 10. P. S. 27, § 8. 11 Allen, 149. 121 Mass. 536.
1785, 75, § 8. G. S. 18, § 8. 1 Met. 473. 113 Mass. 67. 122 Mass. 268, 344.

SECTION 13. A town may hold real estate for the public use of the inhabitants, and may convey the same either by a vote of its inhabitants or by a deed of its committee or agent; may lease, for not more than five years, to a post of the grand army of the republic, to a camp of the legion of Spanish war veterans or to a veteran firemen's association, established therein, on such terms as the selectmen determine, a public building or part thereof belonging to such town, except school houses in actual use as such, to be used solely for the purposes of such organization; may hold personal estate for the public use of the inhabitants, and alienate and dispose of the same; may hold real and personal estate in trust for the support of schools, and for the promotion of education, within the limits of the town; may receive, hold and manage any devise, bequest or gift for the establishment or maintenance of any reading room for which it may grant money under the provisions of section fifteen; and may make — may hold and convey property, etc.
R. S. 15, § 11.
G. S. 18, § 9.
1880, 111, § 1.
P. S. 27, § 9.
1885, 60.
1891, 218.
1901, 152.
12 Mass. 417.
2 Pick. 351, 352.
12 Cush. 103.
5 Allen, 576.
10 Allen, 182.
113 Mass. 433.
122 Mass. 349.
127 Mass. 1.

the orders in their judgment necessary or expedient for the disposal or use of their corporate property.

Towns may make contracts. R. S. 15, § 11. G. S. 18, § 9. P. S. 27, § 9. 1888, 160. 1889, 377. 1890, 119. 1895, 217. 167 Mass. 115.

SECTION 14. A town may make contracts for the exercise of its corporate powers and for the following purposes: —

For the disposal of its garbage, refuse and offal by contract for a term of years made by the selectmen, board of health or other officers having charge thereof.

For the reception, care and treatment, by hospitals established in a town, or in the vicinity thereof, which maintains and manages no hospital, of persons who by misfortune or poverty require relief during temporary illness; but this provision shall not add to the compensation now required from the commonwealth or from any city or town for the care and treatment of any person chargeable to them respectively as a pauper, or diminish the right of the commonwealth to require the removal to the state almshouse of a pauper dependent upon it.

To pay interest at a rate not exceeding four per cent per annum, during the lives of any persons in being at the time of entering into such contract, upon any cash gift which it may lawfully receive.

To contribute to the cost of building, by any other city or town situated in the water shed of its water supply, a sewer or system of sewers to aid in protecting such water supply from pollution.

Appropriations by towns. 1785, 75, § 7. R. S. 15, §§ 12, 16; 25, § 8. G. S. 18, § 10. P. S. 27, §§ 10, 12. 1897, 132.

SECTION 15. It may at legal meetings appropriate money for the following purposes: —

6 Pick. 101. 12 Pick. 227. 19 Pick. 485. 21 Pick. 64. 23 Pick. 71. 3 Met. 163. 10 Met. 508. 3 Cush. 530. 10 Cush. 56, 252. 12 Cush. 103. 4 Gray, 502. 11 Gray, 340, 436. 1 Allen, 103. 3 Allen, 9. 6 Allen, 152. 10 Allen, 570. 11 Allen, 108. 13 Mass. 272. 103 Mass. 94, 104. 108 Mass. 408. 109 Mass. 311. 112 Mass. 1. 114 Mass. 592. 122 Mass. 270. 127 Mass. 502. 132 Mass. 436. 137 Mass. 175. 153 Mass. 130.

To pay a proper charge of an insurance company for acting as surety on the official bond of any town officer.

1826, 143, § 4. R. S. 23, § 9. For the support of public schools authorized or required by law.

1692-3, 28, § 6. For the relief, support, maintenance and employment of the poor.

1793, 59, § 1. R. S. 46, § 1.

1786, 67, § 2. 1818, 121. R. S. 24, §§ 70, 78; 25, § 9. For laying out, discontinuing, making, altering and repairing highways and town ways, and for materials used and labor employed thereon.

1882, 154, § 8. For the purchase and improvement of parks laid out under the provisions of chapter twenty-eight.

1899, 171. For the printing and publishing of town records.

1854, 429. For procuring the writing and publishing of town histories.

For burial grounds.

R. S. 54, § 3. 1817, 144. For encouraging the destruction of noxious animals. 1838, 38.

1869, 381. P. S. 27, § 12. 1885, 123, § 1. 1899, 330, § 2. For planting shade trees in the public ways or, at the discretion of the tree warden and with the written consent of the owner thereof, upon land adjoining such ways at not more than twenty feet from the way for the purpose of shading or ornamenting the way, an amount not exceeding fifty cents for each of its ratable polls in the preceding year.

1872, 324, § 2. 1885, 189, §§ 1, 2. 1901, 76. For necessary aid to soldiers and sailors and their families, and to the families of the slain, and, by special vote, may entrust such amount or any part thereof to any post of the grand army of the republic in such town to be disbursed under its direction to any

such persons residing therein, but the treasurer or other financial officer of such post shall, before receiving such money, give bond to the town for the faithful disbursement thereof in a sum and with sureties to the satisfaction of the selectmen, and annually return to the town an itemized and specific statement under oath of the disbursement of such amounts during the preceding year and exhibit his vouchers therefor to a committee of the town for examination.

For erecting headstones or other monuments at the graves of persons, credited to its quota, who served in the war of the revolution, the war of eighteen hundred and twelve, the Seminole war, the Mexican war or the war of the rebellion, or who served in the military or naval service of the United States in the Spanish-American war; for erecting or dedicating monuments in memory of its soldiers who died in the service of the country in the war of the rebellion, or of its soldiers or sailors who died in the service of the United States in the Spanish-American war; and for keeping in repair or decorating graves, monuments or other memorials erected to the memory of soldiers or sailors who died in the service of the United States, or to the memory of its firemen who died from injuries received in the performance of their duties in the fire service, or for other memorial observances in their honor. Money appropriated in honor of such firemen may be paid over to, and expended for such purpose by, any veteran firemen's association or similar organization. 1864, 100. 1870, 169. 1873, 306. 1884, 42. 1886, 76. 1896, 291, 455. 1901, 287.

For marking historic spots within its limits. 1896, 477.

For conveying pupils to and from the public schools, or, if it maintains no high school or public school of corresponding grade but affords high school instruction by sending pupils to other towns, for the necessary transportation expenses of such pupils, the same to be expended by the school committee in its discretion. 1869, 132. 1894, 436, § 4. 1898, 496, § 3.

For necessary and convenient drinking troughs, wells and fountains in the highways, public squares and commons. 148 Mass. 580. 1870, 118. 1872, 84. P. S. 27, § 50.

For the employment of counsel, if authorized by a two-thirds vote, to represent the town at any hearing in which it is interested before a committee of the general court; but no expense is hereby authorized except such as would be incurred in presenting a case before the judicial courts, and a detailed account of all expenses incurred shall be filed with the town clerk and be open to the inspection of all the tax payers of the town. 125 Mass. 526. 1889, 380. 151 Mass. 437.

For procuring the detection and apprehension of persons committing a felony therein. 1869, 206.

For the establishment, maintenance or increase of a public library therein, and for the erection or provision of suitable buildings or rooms therefor. 1851, 305, § 2. 1859, 25. G. S. 33, § 9. 1866, 222. P. S. 40, § 10.

For maintaining a library therein to which the inhabitants have free access and of which they have the use, and for establishing and maintaining a public reading room in connection with and under the control of the managers of such library. 1872, 217, § 4. 1880, 111, § 1.

For all other necessary charges arising in such town. 172 Mass. 286.

SECTION 16. Towns may appropriate money to be expended under the direction of the tree warden for exterminating insect pests in the public ways and places and for removing therefrom trees and plants upon which such insects naturally breed, except trees and plants from which the owner or lessee of land abutting Extermination of insect pests. 1893, 78. 1899, 330, § 4.

on said public way or place annually exterminates all such insect pests to the satisfaction of the tree warden.

Prevention of forest fires. 1897, 254, § 11.

SECTION 17. A town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, may appropriate money for the prevention of forest fires to an amount not exceeding one-tenth of one per cent of its valuation.

Appropriation for celebrations. 1874, 112. 1881, 88. P. S. 27, § 11. 1889, 21. 1892, 166. 1896, 152. 10 Cush. 252. 1 Allen, 103. 140 Mass. 381.

SECTION 18. A town may at its annual meeting appropriate money for the celebration of the fourth day of July, and any town may raise by taxation such amount of money as may be authorized by a two-thirds vote for the celebration of the anniversary of its settlement or of its incorporation at the end of a period of fifty, or of any multiple of fifty, years therefrom, and of publishing the proceedings thereof.

Deposits of towns limited. 1893, 266.

SECTION 19. A town shall not, at any one time, have on deposit in a bank or trust company an amount exceeding sixty per cent of the capital and surplus of such bank or trust company, unless satisfactory security is given to it by such bank or trust company for such deposit in excess of sixty per cent.

Public baths, etc. 1874, 214, §§ 1, 3. P. S. 27, § 13. 1898, 125, § 2. 137 Mass. 175.

SECTION 20. A town which accepts the provisions of this and the following section, or has accepted the corresponding provisions of earlier laws, by a two-thirds vote at an annual meeting, may purchase or lease land, and erect, alter, enlarge, repair and improve buildings for public baths and wash-houses, either with or without open drying grounds, and may make open bathing places, provide them with the requisite furniture, fittings and conveniences, provide instruction in swimming, and may raise and appropriate money therefor.

—regulations for government of. 1874, 214, § 2. P. S. 27, § 14. 1898, 125, § 1.

SECTION 21. Such town may establish rates for the use of such baths and wash-houses, and appoint officers therefor, and may make by-laws for the government of such officers, and authorize them to make regulations for the management thereof and for the use thereof by non-residents of said town.

Towns may water streets. 1895, 186. 175 Mass. 118.

SECTION 22. A town containing more than three thousand inhabitants which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, may annually appropriate money for watering its public streets, and may provide that its assessors may assess upon the estates abutting on the streets so watered the whole or any portion of the cost thereof; and such assessments, unless previously paid, shall be certified by the assessors to the collector of taxes, who shall include it in the next tax bill for an annual tax upon such estate, and the same shall be a lien upon such estate, and shall be considered as constituting a part of the taxes on real estate, and be levied, collected and paid or abated in like manner.

Town by-laws. C. L. 147. 1692-3, 28, § 5. 1785, 75, § 7. 1801, 62. 1834, 81. R. S. 15, §§ 13, 14.

SECTION 23. Towns may, for the purposes hereinafter named, make such orders and by-laws, not repugnant to law, as they may judge most conducive to their welfare, which shall be binding upon all the inhabitants thereof and upon all persons coming within their

limits. They may, except as hereinafter provided, affix penalties for breaches thereof not exceeding twenty dollars for one offence, which may be recovered on complaint before a police, district or municipal court or a trial justice, and shall inure to the town or to such uses as it may direct:

1847, 166. G. S. 18, §§ 11, 12, 15. P. S. 27, §§ 15, 19, 22. 1898, 190, § 1. 3 Pick. 462. 6 Pick. 187.

1 Met. 130. 1 Cush. 494. 2 Cush. 562, 576. 1 Allen, 158. 97 Mass. 223. 155 Mass. 531. 12 Gray, 161. 9 Allen, 266. 121 Mass. 356. 172 Mass. 58. 14 Gray, 52. 12 Mass. 356. 145 Mass. 384. 174 Mass. 579.

For directing and managing their prudential affairs, preserving peace and good order, and maintaining their internal police.

Town by-laws, prudential affairs and internal police.

For preventing the fall of snow and ice from the roofs and securing the removal thereof in such portions of their limits and to such extent as they deem expedient. The penalty for violation of such by-laws shall apply to the owner of such building or to his agent having the care thereof.

— removal of snow, etc., from roofs, etc. 1863, 86.

For providing for the removal of snow and ice from the sidewalks within the limits of the highways or town ways therein to such extent as they deem expedient. The penalty for the violation of such by-laws shall apply to the owner of abutting property or his agent having charge thereof.

— removal of snow from sidewalks. 1898, 190, § 1.

For requiring owners of buildings near the line of streets and public ways to erect barriers, or to take other suitable measures to prevent the fall of snow and ice therefrom upon persons travelling on such streets and ways, and to protect such persons from other dangers incident to the maintenance, occupation or use thereof.

— erection of barriers. 1878, 91.

For declaring any sewer or drain laid in any land, street or way, public or private, opened or proposed to be opened for public travel, to be a common sewer, and that it shall not be laid or connected with any existing common sewer except by the board or officers authorized to lay and maintain common sewers.

— regulation of sewers. 1895, 227. 126 Mass. 431.

For regulating, under a penalty not exceeding fifty dollars for each offence, the use of the public sewers and the connections which may be made therewith.

— regulation of sewer deposits. 1897, 116, § 1.

For regulating, throughout the town or within a limited portion thereof, by any designated board or commission, the inspection, materials, construction, alteration or use of pipes and fixtures through which water is supplied by public water works; and to prohibit the use of such water by persons neglecting or refusing to comply with such by-laws.

— regulating water supply pipes. 1875, 105, §§ 1, 2. P. S. 27, §§ 16, 17.

For regulating, under a penalty not exceeding fifty dollars for each offence, the use of reservoirs connected with its water supply and land and driveways appurtenant thereto.

— use of reservoirs, etc. 1876, 139. P. S. 27, § 18.

For regulating the width of tires of vehicles owned in such town and used on the highways thereof.

— regulating width of tires. 1827, 106.

1829, 29. 1832, 148. 1834, 29. 1895, 296.

SECTION 24. A city or town may make ordinances or by-laws, or the mayor and aldermen or the selectmen may make rules and orders, for the regulation of carriages and vehicles used therein, however propelled, with penalties for the violation thereof not exceeding twenty dollars for one offence; and may annually receive one dollar for each license granted to a person to set up and use any carriage or vehicle therein. Such rules shall not take effect until they have been published at least one week in a newspaper published in the city, town or county.

— regulation of carriages, etc. 1847, 224, §§ 1, 2. 1850, 275. G. S. 19, § 14. P. S. 28, § 25. 1885, 197. 2 Cush. 562. 122 Mass. 60. 139 Mass. 195. 155 Mass. 227.

Duties imposed in by-laws, how performed.
1855, 287.
G. S. 18, § 13.
P. S. 27, § 20.
166 Mass. 136.

SECTION 25. If a town by-law imposes a duty and affixes a penalty for the neglect or violation thereof, it may also provide that, upon such neglect or violation, the duty may be performed by officers therein named at the expense of the person liable to perform the same; and such expense, to an amount not exceeding the penalty, may be recovered by the town in an action of contract.

By-laws to be approved and published.
1692-3, 28, § 5.
1695-6, 9, § 5.
1785, 75, § 7.
R. S. 15, §§ 13, 15.
1847, 166.
1855, 222, §§ 1, 2.
1857, 82.
G. S. 18, §§ 14, 16.
P. S. 27, §§ 21, 23.

SECTION 26. Before a by-law takes effect it shall be approved by the superior court, and shall, with such approval, be recorded in the office of the clerk of the courts in the county in which the town adopting it is situated or, in the county of Suffolk, of the clerk of the superior court for civil business, and shall be published in one or more newspapers printed in the county in which the town is situated. 2 Cush. 335. 140 Mass. 485. 141 Mass. 81. 145 Mass. 384.

Towns to provide bookcase.
1858, 106, §§ 1, 2.
G. S. 18, § 17.
P. S. 27, § 24.

SECTION 27. Each town shall provide a suitable bookcase for the preservation of books, reports, and laws received from the commonwealth, and for every month's neglect thereof shall forfeit ten dollars.

Town seal.
1898, 389, § 2.
1899, 256, § 2.

SECTION 28. Each town shall have a seal, established at a meeting called for the purpose, which shall be in the custody of the town clerk. Papers or documents issued from any office or board of the town may be attested therewith.

Annual report.

SECTION 29. The selectmen shall annually, before the annual town meeting, at the expense of the town, cause a report to be printed for the use of the inhabitants which shall contain a statement of their doings and transactions subsequent to the preceding annual town meeting, the report of the school committee and of such other officers and boards as consider it expedient to make a report, a list of persons who have been drawn as jurors as required by section nine of chapter one hundred and seventy-six, and such other matters as they consider it expedient, or as the town votes, to insert. If the selectmen neglect or refuse to make such report they shall severally forfeit fifty dollars.

Towns to forward copies of reports to state library.
1866, 195, §§ 1, 2.
P. S. 27, §§ 25, 26.

SECTION 30. One copy or more of the annual report and of any special report of a town shall annually, on or before the last day of April, be transmitted by the town clerk to the state library, and until such transmission, the publications distributed by the commonwealth shall be withheld from the town.

— may supply water to their inhabitants.
1870, 93, § 1.
1873, 255.
P. S. 27, § 27.
126 Mass. 416.
144 Mass. 177.

SECTION 31. A town, by the action of its selectmen, ratified by a majority of its voters present and voting thereon, at a town meeting at which the voting list shall be used, may, for the purpose of supplying water to its inhabitants, purchase of any municipal or other corporation the right to take water from its sources of supply or from its pipes; or may purchase its whole water rights, estates, franchises and privileges, and thereby become entitled to all its rights and privileges and subject to all its duties and liabilities; or it may contract therewith for a supply of water.

SECTION 32. A town may, subject to the provisions of chapter twenty-seven, issue bonds, to an amount not exceeding ten per cent of its valuation, for such purchase or contract, for purchasing materials or for work necessary for such water supply. [1 Op. A. G. 263.]

Towns may issue bonds. 1870, 93, §§ 2, 3. 1873, 255. P. S. 27, §§ 28, 29.

SECTION 33. If the water is conveyed through another city or town, pipes may be laid through any streets and highways therein which the mayor and aldermen or selectmen thereof may designate; and the town laying such pipes shall be liable for all damages caused thereby.

Pipes may be laid in another town. Damages. 1870, 93, § 4. P. S. 27, § 30.

SECTION 34. All purchase money received under the provisions of the three preceding sections by a town owing a water debt shall be applied to the payment thereof.

Purchase money, how applied. 1870, 93, § 5. P. S. 27, § 31.

SECTION 35. The city council of a city or the selectmen or water commissioners of a town which has a system of water supply may, in cases of emergency, take water from any brook, stream, river, lake, pond or reservoir which is not already appropriated to uses of a municipal water supply, for a period of not more than six months in any one year, in such quantities as may be necessary to relieve the emergency; but no such taking shall be made until after the state board of health has approved the water as a proper source of water supply, and selectmen or water commissioners of towns shall not make such taking unless they have first been so authorized by a vote of the inhabitants at a town meeting. They may also take rights to use any land for such time as it may be necessary to use such water. The vote of a city council or of the inhabitants of a town to make or authorize such taking shall be conclusive evidence of the existence of the emergency.

Temporary taking of water supply. 1901, 313, § 1.

SECTION 36. The city council of a city or the selectmen or water commissioners of a town which takes such water and land shall, within thirty days after such taking, cause a description of the water and land taken, sufficiently accurate for identification, and a statement of the purpose and the time for which it is taken, signed by the mayor of the city or by the chairman of the selectmen or of the water commissioners of the town, to be recorded in the registry of deeds for the county or district in which such water and land are situated. Upon such recording, the right to use such land and water for the time named in such statement shall vest in such city or town.

Record of taking. 1901, 313, § 2.

SECTION 37. The city council of a city or the selectmen or water commissioners of a town shall, within sixty days after the termination of the exercise of any right taken under the provisions of the two preceding sections, estimate and determine, as nearly as may be, the actual damages sustained by any person by the taking of any water and of the rights to use any land under the provisions of said sections. A person who is aggrieved by such determination may have his damages assessed by a jury in the superior court in the manner provided for the assessment of damages sustained by the laying out of ways. If, upon the trial, the damages are in-

Damages. 1901, 313, § 3.

creased the petitioner shall recover costs; otherwise, he shall pay costs; and costs shall be taxed as in civil cases. No petition for such damages shall be brought after the expiration of two years from the date of the recording of the description and statement aforesaid.

Taking in cities and towns using metropolitan water supply. 1901, 313, § 4.

SECTION 38. The powers conferred upon, and the duties to be performed by, the mayor or city council of a city under the provisions of the three preceding sections shall, within such cities and towns as use the metropolitan water supply, be exercised and performed by the metropolitan water and sewerage board.

Lock-up to be provided by towns. 1862, 216, § 16. 1876, 159, § 1. P. S. 27, § 32.

SECTION 39. Each town containing more than three thousand inhabitants shall, and any town may, maintain a secure and convenient lock-up to which persons arrested without a warrant may be committed; and a magistrate may commit, for further examination, a prisoner charged with a bailable offence and not recognizing, to the lock-up in the town in which the court is held, if he considers it safe and commodious and that expense may be saved thereby.

Keeper of lock-up. 1873, 175, § 1. P. S. 27, § 33.

SECTION 40. The selectmen of towns which are required to maintain a lock-up shall annually, by a writing recorded with the town clerk, appoint a keeper of the lock-up, who shall have the care and custody thereof and of persons committed thereto. He shall accept the appointment within three days after notice thereof, shall be sworn and shall hold office for one year unless sooner removed.

—powers of. Charges for keeping. 1862, 216, § 17. 1873, 175, § 2. 1876, 159, § 2. 1881, 69. P. S. 27, § 34. 1890, 166.

SECTION 41. Such keeper shall have the power of a police officer and shall receive the compensation fixed by the selectmen at the time of his appointment. For the expenses of detention and support of each person committed, who is shown by the officer's return to have been actually detained in the lock-up, there may be charged upon the precept, if any, and paid to the town, fifty cents for each full day or fraction thereof.

Neglect to maintain lock-up or appoint keeper. 1873, 175, § 3. P. S. 27, § 35.

SECTION 42. If a town neglects to provide and maintain a lock-up required by law or if the selectmen neglect to appoint a keeper, the town and each selectman shall forfeit ten dollars for each month during which such neglect continues.

Lock-up to be accessible to officers. 1873, 175, § 4. 1879, 305, § 2. P. S. 27, § 36.

SECTION 43. Such lock-ups shall, at all reasonable hours, be accessible to the district police and to sheriffs, constables and police officers for any legal and proper use; and a keeper thereof who neglects to keep it so accessible, or who refuses to said officers the use of the same, shall be punished by a fine of not less than five nor more than twenty dollars.

Improvement districts. 1870, 332. P. S. 27, §§ 37–40.

SECTION 44. A town may, at a town meeting, authorize a village or district in such town, if it contains not less than one thousand inhabitants, to organize under a name approved by the town for the purpose of erecting and maintaining street lamps, establishing and maintaining libraries, building and maintaining sidewalks or for

employing and paying watchmen and police officers, and shall accurately define the limits thereof. Such village or district shall have a clerk and a prudential committee, and may have a treasurer and such other officers as it determines, all of whom shall hold office for a term of one year and until others are chosen and qualified in their stead. Such village or district may adopt by-laws to define the manner of calling its meetings and the duties of its officers, may sue and be sued in the name of its inhabitants, and, so far as appropriate, shall be subject to the provisions of sections fifty-one, fifty-two, fifty-five, fifty-nine, sixty-one, sixty-two, sixty-three, sixty-seven and sixty-nine of chapter thirty-two.

Land for town hall. 1869, 411, § 1. P. S. 27, § 43. 1894, 145.

SECTION 45. A town, at a meeting held for the purpose, may vote to take any land within its limits not appropriated to public uses, as a place for the erection of a town hall or the enlargement of its town-hall lot; but no lot so taken or enlarged shall exceed one acre in area. The town shall, within sixty days after such taking, file in the registry of deeds for the county or district in which the land lies such description thereof as is required in a common conveyance and a statement of the purpose for which it was taken, both of which shall be signed by the selectmen, and the title of such land shall vest in the town from the time of such recording.

—to revert, when. 1869, 411, § 3. P. S. 27, § 43.

SECTION 46. Land so taken shall revert to the owner, his heirs or assigns, unless within three years after the taking a town hall is erected thereon, or the same is enclosed and devoted to the enlargement of a town-hall lot.

Land for public school, library, etc. 1848, 237, § 1. 1851, 186. 1855, 318. G. S. 38, § 38. 1874, 342. P. S. 44, § 49. 1894, 145. 1897, 299, §§ 1, 4. 1899, 379, §§ 1, 4. 1900, 437. 117 Mass. 384.

SECTION 47. The city council of a city except Boston, the board of street commissioners of the city of Boston with the approval of the mayor, or the inhabitants of a town, may vote to take in fee any land within the limits of the city or town not appropriated to public uses, for the purpose of erecting thereon a building to be used for a public school, a library or an engine house, or for the enlargement of a lot of land taken or used for such purpose, but no land shall be so taken if the lot will thereby exceed two acres in area. Such vote shall contain a description sufficient for identification of the land to be taken.

—how taken. 1894, 145. 1897, 299, § 2. 1899, 379, § 2.

SECTION 48. The mayor of the city or the selectmen of the town, within sixty days after the passage of such vote, shall sign and cause to be recorded in the registry of deeds for the county or district in which the land lies a statement that the city or town takes the land, giving the description aforesaid and the purpose for which the land is taken, and upon such recording the land so described shall be taken in fee by the city or town.

Damages. 1848, 237. 1851, 186. 1855, 10. G. S. 39, §§ 38, 39. 1869, 26; 411, § 2. 1874, 342. P. S. 27, § 42; 44, §§ 48, 49. 1897, 299, §§ 3, 4. 1899, 379, §§ 3, 4.

SECTION 49. The city council of such city except Boston, the board of street commissioners of the city of Boston with the approval of the mayor, or the selectmen of such town, may agree with a person sustaining damages to his property by such taking and the city or town shall pay the same; but, if they are unable to agree, the damages shall on petition of either party, filed in the superior court within two years after the date of the recording of the state-

ment, be determined by a jury in the manner provided for determining damages sustained by the taking of land in laying out highways.

Abandonment of land or easements. 1901, 294.

SECTION 50. If any officer, board or other authority of a city or town having charge of any land, easement or right taken for such city or town, otherwise than by purchase, notifies the city council of the city or the selectmen of the town, respectively, that, in his or its opinion, such land, easement or right, or part thereof, is no longer required for public purposes, and if, thereafter, the city council, by a vote of two thirds of all the members of each branch thereof, or of the single branch, if it consists of one branch, or the inhabitants of a town, by a vote of two thirds of the inhabitants thereof present and voting at a town meeting, authorize the conveyance of such land, or of part thereof, or the abandonment of such easement or right, or part thereof, and specify the minimum amount to be paid for such conveyance or abandonment, the mayor of the city or the selectmen of the town may, for such amount or a larger amount, and upon such other terms as the mayor or selectmen shall consider proper, convey said land or part thereof by deed, or declare said easement or right, or part thereof, to be abandoned. Such declaration, being recorded in the registry of deeds for the county and district in which the land is situated, shall extinguish the easement or right.

Towns may construct telegraph lines. 1869, 457, § 1. P. S. 27, § 44.

SECTION 51. A town may construct telegraph lines for its own use upon, along and under the public ways and squares within its limits, subject to the provisions of chapter one hundred and twenty-two, so far as applicable.

—may authorize private lines. 1869, 457, § 2. P. S. 27, § 45. 1883, 221. 1889, 434. 1895, 350.

SECTION 52. The selectmen may, upon terms and conditions prescribed by them, and subject to the provisions of chapter one hundred and twenty-two, so far as applicable, authorize a person to construct lines for private use upon, along and under the public ways of the town for the transmission, by electricity, of light, or of heat or power, except such as is used by street railway companies or for the transmission, by electricity or otherwise, of intelligence by telegraph or telephone. Upon the construction of such line, the poles and structures thereof within the location of such ways shall become the property of the town, and the selectmen may regulate and control the same, may at any time require the persons using the same to make alterations in the location or construction thereof and may, after notice and a hearing, order the removal thereof. The town may at any time attach wires for its own use to such poles and structures, and the selectmen may permit other persons to attach wires for their private use thereto or to poles and structures constructed by the town, and may prescribe reasonable terms and conditions therefor.

Penalty for injury to same. 1869, 457, § 3. P. S. 27, § 46.

SECTION 53. Whoever unlawfully injures or destroys any wire, pole, structure or fixture of any such line shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two years, or by both such fine and imprisonment.

SECTION 54. The selectmen may, within their respective towns, permit telegraph and telephone lines to be laid under any way or square, and may establish reasonable regulations for the erection and maintenance of all lines for the transmission of intelligence by telegraph or telephone, by electricity or otherwise, or for the transmission by electricity of light, or of heat or power except such as is used by street railway companies, by every person having authority to place poles, wires, structures and other appliances for any purpose in or under public ways or places, including all lines owned or used by said towns.

Towns may regulate telegraph, etc., wires.
1880, 83, § 1.
P. S. 27, § 47.
1883, 221.
1889, 398, 434.
1895, 350.

SECTION 55. The town shall forthwith in writing give notice in detail to the owner, constructor or person using any line therein which is constructed or maintained in violation of such regulations; and if thereafter such unlawful construction is continued or if said lines are not within a reasonable time so altered as to conform to said regulations, the supreme judicial court or the superior court shall have jurisdiction in equity to enjoin the further progress of said work, or to order such line to be removed or altered at the expense of the owners, constructors or persons using the same. If such line belongs to or is used by a town, like action may be taken upon complaint of a person injured, after such notice to the town as the court may order.

Proceedings, if regulations are violated.
1880, 83, § 2.
P. S. 27, § 48.
1891, 293.

SECTION 56. Selectmen may authorize citizens of the commonwealth to establish and maintain, in their town, poles, wires and other apparatus for telegraphic and telephonic communication, in conformity with the provisions of chapter one hundred and twenty-two and other laws applicable to telegraph or telephone companies.

Selectmen may authorize citizens to establish poles, wires, etc.
1880, 83, § 3.
P. S. 27, § 49.

SECTION 57. A person to whom a debt is due for labor which has been performed in constructing a building, sewer or drain, or water works or other public works, owned by a city or town, under a contract with any person having authority from or rightfully acting for such city or town in furnishing such labor, shall have a right of action against such city or town to recover such debt if, within thirty days after he ceases to perform such labor, he files in the clerk's office of the city or town against which he claims such right of action a written statement, under oath, of the amount of the debt so due to him, and the names of the persons for whom and by whose employment the labor was performed, and if, within sixty days after he ceases to perform such labor, he commences such action. Such right of action shall not be lost by reason of a mistake in stating the amount due; but the claimant shall not recover as damages a larger amount than is named in said statement as due to him, with interest. No person who has contracted to furnish labor other than his own in such construction shall have such right of action.

Actions against towns for labor.
1892, 270.
173 Mass. 408.
175 Mass. 201.

SECTION 58. The selectmen of a town which is required to enter into a recognizance, may by an order or vote authorize any person to enter into the recognizance in the name and behalf of the town. No surety shall be required in such recognizance. P. S. 27, § 51.

Recognizances by towns.
1833, 216.
R. S. 15, §§ 88, 89.
G. S. 18, § 18.

TOWN CLERK.

Town clerk to record all votes at town meetings. 1692–3, 28, § 4.

SECTION 59. The town clerk shall record all votes passed at the meeting at which he is elected and at all other town meetings held during his term of office. 1785, 75, § 2. R. S. 15, § 44. G. S. 18, § 45. 1893, 423, § 2. 3 Allen, 409, 410. 117 Mass. 469. P. S. 27, § 95. 13 Pick. 305. 110 Mass. 214, 433. 125 Mass. 554.

—to administer oaths; record. 1756–7, 26, § 3. 1785, 75, §§ 2, 3. R. S. 15, § 45.

SECTION 60. He shall administer the oaths of office to all town officers who apply to him to be sworn, and shall make a record thereof and of the oaths of office taken before justices of the peace of which certificates are filed. G. S. 18, § 46. P. S. 27, § 96. 1893, 423, § 3.

Return of certificate of oath. 1756–7, 26, § 3.

SECTION 61. A justice of the peace who administers the oath of office to any town officer shall, within seven days thereafter, return to the town clerk a certificate of the administering of such oath.

Assistant town clerk. 1829, 54, §§ 2, 3. R. S. 15, §§ 50, 51. G. S. 18, § 48. P. S. 27, § 98. 1893, 60; 417, § 285; 423, § 4. 1895, 142.

SECTION 62. The town clerk may in writing appoint an assistant clerk, who shall be sworn to the faithful performance of his duties; and a record shall be made of the appointment and oath. The assistant town clerk may be a woman, and may, in the absence of the clerk, perform his duties and have the powers and be subject to the requirements and penalties applicable to him; but the town may elect, or the selectmen may appoint, a clerk pro tempore, who shall be sworn and shall record his election or appointment and oath. The assistant clerk shall not receive a salary from the town, but his compensation, if any, shall be paid by the clerk, to whom all fees received by the assistant shall be paid.

Return of names of constables to clerk of courts. 1889, 384.

SECTION 63. He shall, except in the county of Suffolk, within seven days after the election or appointment and qualification of a constable, make return of his name to the clerk of the courts of the county.

Index of recorded instruments. 1885, 190.

SECTION 64. He shall make and keep an index of instruments entered with him which are required by law to be recorded. It shall be divided into five columns, with appropriate headings, for recording the date of reception, the names of parties and the book and page on which each instrument is recorded, and shall be open for public inspection.

SELECTMEN.

Selectmen to be assessors, etc., in certain cases. 1699–1700, 26, § 4. 1785, 50, §§ 1, 2; 75, § 2.

SECTION 65. Selectmen shall be assessors of taxes and overseers of the poor in towns which have not authorized the election of such officers; and, before acting as assessors, they shall take the oath required of assessors. R. S. 15, §§ 52, 53. G. S. 18, § 50. P. S. 27, § 101. 1893, 423, § 6. 140 Mass. 389. 145 Mass. 50, 52.

—to notify assessors of receipt of collector's or treasurer's bond.

SECTION 66. They shall, upon the receipt and approval of the bond of a collector of taxes or treasurer, give written notice thereof to the assessors. 1879, 157, § 1. P. S. 27, § 92. 1893, 423, § 8. 140 Mass. 388.

—penalty for acting before taking oath. 1835, 105.

SECTION 67. A person who is elected a selectman and who enters upon the performance of his duties before taking the oath of office shall forfeit not more than one hundred dollars. R. S. 15, § 54. G. S. 18, § 49. P. S. 27, § 100. 1893, 423, § 9.

ASSESSORS.

SECTION 68. An assessor, assistant assessor or other person chosen to assess taxes or to determine or to assist in determining the value of property for the purpose of taxation shall, before entering upon the performance of his duties, take the following oath: —

Assessors, oath of office.
1699-1700, 26, § 1.
1809, 127.
R. S. 15, §§ 55, 56.
G. S. 18, §§ 51, 52.
P. S. 27, §§ 102, 103.
1885, 355, §§ 1, 2.
1893, 423, § 10.
119 Mass. 77.

I, having been chosen to assess taxes and estimate the value of property for the purpose of taxation for the town (or city) of for the year (or years) ensuing, do swear that I will truly and impartially, according to my best skill and judgment, assess and apportion all such taxes as I may during that time assess; that I will neither overvalue nor undervalue any property subject to taxation, and that I will faithfully perform all the duties of said office.

If he neglects to take such oath before entering upon the performance of his duties, he shall forfeit not more than fifty dollars.

—penalty for neglect to take oath.

1699-1700, 26, § 2. 1785, 50, § 1. R. S. 15, § 57. G. S. 18, § 53. P. S. 27, § 104. 1893, 423, § 10. 129 Mass. 577, 578.

SECTION 69. An assessor, assistant assessor or other person chosen to determine the valuation of property for the purpose of taxation who, in order that the tax payers may escape payment of their just proportion of any state or county tax or in order to evade any law limiting municipal indebtedness or the rate of taxation to a percentage of valuation or for any other fraudulent or corrupt purpose, knowingly fixes the valuation of any property at a smaller or greater amount than its full and fair cash value, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

—penalty for false valuations.
1885, 355, § 3.

SECTION 70. Assistant assessors shall, in their respective districts, assist the assessors in making lists of persons liable to be assessed for poll taxes in such districts, in publishing and transmitting lists of persons so assessed, in estimating the value of the real and personal estate in such districts, and in the performance of such other duties as the assessors require.

Assistant assessors, powers and duties.
1809, 127.
R. S. 15, § 56.
G. S. 18, § 52.
P. S. 27, § 103.
1893, 423, § 11.

OVERSEERS OF THE POOR.

SECTION 71. Overseers of the poor shall, within seven days after the annual town election, choose a chairman and a secretary. The secretary may or may not be one of the overseers. Overseers of the poor shall cause books to be kept and so arranged as to readily furnish the information required by law relative to all needy persons aided by them, and all further information as to relief applied for, whether given or refused, the preservation of which may be of importance to the town or to the commonwealth, stating the amount and kind of aid given, and the reasons for giving or refusing it.

Overseers of the poor, organization.
1877, 186, §§ 3, 4.
P. S. 27, §§ 71, 72.
1893, 423, § 12.
145 Mass. 535.

TOWN TREASURER.

SECTION 72. The town treasurer shall give bond for the faithful performance of his duties in a sum and with sureties approved by the selectmen, shall receive and take charge of all money belonging to the town, and shall pay over and account for the same

Town treasurer, duties, etc.
1699-1700, 12.
R. S. 15, §§ 58, 64.
G. S. 18, §§ 54, 59.

P. S. 27, §§ 105, 110.
1893, 423, § 13.
1899, 394, §§ 3, 4.
6 Cush. 229.
12 Cush. 112.
109 Mass. 216.

according to the order of the town or of the authorized officers thereof. He shall have the authority given to an auditor by section eighty and shall annually render a true account of all his receipts and disbursements, and a report of his official acts.

Town treasurer to bring actions.
1699-1700, 12.
1797, 14.
R. S. 15, §§ 59, 63.
G. S. 18, § 55.
P. S. 27, § 106.

SECTION 73. He may in his own name and official capacity prosecute actions upon bonds, notes or other securities given to him or to his predecessors in office; and unless otherwise provided, he shall prosecute for all fines and forfeitures inuring to the town.

1893, 423, § 14. 153 Mass. 215. 157 Mass. 407.

—to prosecute for trespasses on public property.
1715-16, 14, § 2.
1785, 28, § 4.
R. S. 14, § 54; 15, § 62.
G. S. 18, § 56.

SECTION 74. He shall prosecute for trespasses committed on a public building or enclosure belonging to the town; and if a public building is owned partly by the town and partly by the county, such prosecution may be made either by the town or county treasurer, whoever first institutes the same. P. S. 27, § 107. 1893, 423, § 15.

—as collector of taxes, may appoint deputies.
1815, 130, § 1.
1817, 69.
R. S. 15, §§ 60, 61.
G. S. 18, §§ 57, 58.
P. S. 27, §§ 108, 109.
1893, 423, § 16.
8 Met. 102.
99 Mass. 472.
100 Mass. 172.

SECTION 75. A town treasurer who acts as collector of taxes may appoint deputies, who shall give bonds to the satisfaction of the selectmen for the faithful performance of their duties; and such collector and deputies shall have the powers of collectors of taxes. A treasurer acting as collector may issue his warrant to the sheriff of the county or to his deputy, or to any constable of the town, directing them to distrain the property or take the body of any person delinquent in the payment of taxes, and may proceed in the same manner as collectors. 145 Mass. 53.

COLLECTOR OF TAXES.

Constable collector of taxes, when.
1699-1700, 26, § 10.

SECTION 76. If a person appointed to collect taxes in a town refuses to serve, or if no person is elected or appointed a collector of taxes, the constables of the town shall be the collectors of taxes.

1785, 70, § 1. R. S. 15, § 78. G. S. 18, § 71. P. S. 27, § 123. 1893, 423, § 17. 6 Gray, 387, 502.

Collector to give bond.
R. S. 15, § 80.
G. S. 18, § 72.
P. S. 27, § 124.

SECTION 77. The collector of taxes shall give bond to the town for the faithful performance of his duties, in a sum and with sureties approved by the selectmen. 1893, 423, § 18. 9 Met. 499. 6 Cush. 229. 12 Cush. 112. 2 Gray, 298. 8 Gray, 613. 156 Mass. 403.

—to have powers of treasurer, when.
1850, 57.
G. S. 18, § 73.

SECTION 78. A town may at a meeting called for the purpose authorize its collector of taxes to use all means of collecting taxes which a town treasurer may use when appointed a collector of taxes. P. S. 27, § 125. 1893, 423, § 19. 99 Mass. 72. 101 Mass. 72. 145 Mass. 53.

AUDITORS.

Auditors, powers and duties.
1886, 295.
1888, 221.
1893, 423, § 20.

SECTION 79. The auditors of a town shall examine the books and accounts of all its officers and committees who are intrusted with the receipt, custody or expenditure of money, and all original bills and vouchers on which money has been or may be paid from its treasury. They shall have free access to such books, accounts, bills and vouchers as often as once a month, for the purpose of examination, and shall examine the same at least once in each year, and annually report in writing the result of their examinations.

SECTION 80. An auditor may notify a person to whom money is due from the town that a certain designated amount, which may be either the whole or a part of the money so due, is payable to him upon application to an officer named in the notice, and, unless payment is refused upon such application, no interest shall accrue on said designated amount after the giving of the notice. A part payment authorized by this section shall not affect a right of tender, lien or other provision of law for the recovery of the amount of the debt, or interest or costs thereon, remaining due; but if the part payment is more than the debt as finally determined, the excess, without interest, shall be repaid to the town.

Notice to creditor of amount payable. 1899, 394, §§ 3, 4.

SURVEYOR OF HIGHWAYS.

SECTION 81. If a surveyor of highways is chosen in a town, he shall have the exclusive control of the ordinary repair of highways, town ways, streets and bridges in said town without being subject to the authority of the selectmen.

Duties of surveyors of highways. 1895, 374, § 1.

SECTION 82. If he neglects his duties he shall forfeit ten dollars for each offence; and, if a town is sentenced to pay a fine for a defect in any street, he shall be liable to the town in an action of tort for the amount of such fine and costs. G. S. 18, §§ 75, 76.
P. S. 27, §§ 127, 128. 1893, 423, §§ 21, 22. 10 Met. 108, 111. 13 Gray, 347. 125 Mass. 216.

Neglect of duty. Liability to town for defects. 1786, 81, § 10. R. S. 15, §§ 82, 84.

ROAD COMMISSIONERS.

SECTION 83. If road commissioners are chosen in a town, they shall exclusively have the powers, perform the duties and be subject to the liabilities and penalties of selectmen and surveyors of highways relative to streets, ways, bridges, monuments at the termini and angles of streets, guide posts, sidewalks and shade trees, and, if sewer commissioners are not chosen, relative to sewers and drains.
146 Mass. 43. 164 Mass. 263. 174 Mass. 451.

Road commissioners, powers, duties, etc. 1871, 158, § 2. 1873, 51. P. S. 27, § 75. 1893, 423, § 23. 145 Mass. 561, 564.

SEWER COMMISSIONERS.

SECTION 84. If sewer commissioners are chosen in a town, they shall exclusively have the powers, perform the duties and be subject to the liabilities and penalties of selectmen and road commissioners relative to sewers and drains.

Sewer commissioners, powers, duties, etc. 1893, 304, § 2; 423, § 24.

SUPERINTENDENT OF STREETS.

SECTION 85. In a town which has not authorized the election of road commissioners or surveyor of highways, the selectmen shall, as soon after the annual town meeting as may be, in writing appoint a superintendent of streets, who shall receive such compensation as they or the town determine and shall be removable by them when the public interest requires. He shall be sworn to the faithful performance of his duties, and shall hold office until the next annual town meeting or until his successor is appointed and qualified.

Superintendent of streets. 1889, 98, §§ 1, 4, 5, 6; 178. 1893, 423, § 25. 1894, 17.

SECTION 86. He shall, under the direction of the selectmen, have full charge of all repairs and labor upon streets, ways, bridges and sidewalks and, if no other provision is made, of repairs upon

—powers and duties, etc. 1889, 98, §§ 2, 3. 1893, 423, § 26. 1899, 330, § 1.

sewers and drains; and in relation to such matters he shall have the powers, perform the duties and be subject to the liabilities and penalties of surveyors of highways and road commissioners.

CONSTABLES AND POLICE OFFICERS.

Additional constables.
1900, 213.

SECTION 87. The selectmen may appoint as many constables in addition to those who may be elected by the town as, in their opinion, may be necessary.

Constable giving bond may serve civil processes, etc., in certain cases.
1845, 70, § 1.
1847, 98, § 2.
1851, 94, §§ 1, 2.
G. S. 18, § 61.
1870, 149.
P. S. 27, § 113.
1893, 423, § 27.
1900, 213.
13 Met. 302.
2 Gray, 209.
1 Allen, 461.
5 Allen, 409.
8 Allen, 398, 402.
116 Mass. 373.

SECTION 88. A constable who has given bond to the town for which he has been chosen or appointed in a sum of not less than one thousand dollars, with sureties approved by the selectmen, conditioned for the faithful performance of his duties in the service of all civil processes committed to him, and has filed the same, with the approval of the selectmen indorsed thereon, with the town clerk, may, within his town, serve any writ or other process in a personal action in which the damages are not laid at a greater sum than two hundred dollars, and in replevin in which the subject matter does not exceed in value two hundred dollars, and any writ or other process under the provisions of chapter one hundred and eighty-one.

120 Mass. 146. 143 Mass. 114. 164 Mass. 209.
129 Mass. 143. 159 Mass. 432. 172 Mass. 303.

Same subject.
1872, 268.
P. S. 27, § 114.
1893, 423, § 28.
159 Mass. 432.
164 Mass. 209.
174 Mass. 307.
175 Mass. 451.

SECTION 89. A constable who has filed such bond, in a sum of not less than three thousand dollars, may, within his town, also serve any such writ or other process in which the damages are laid at a sum not exceeding three hundred dollars, and any process in replevin in which the subject matter does not exceed in value three hundred dollars.

Time of filing bond to be noted. Remedies on bond, etc.
1845, 70, §§ 1–3.
1851, 94, § 2.
G. S. 18, § 62.
P. S. 27, § 115.
1893, 423, § 29.
13 Gray, 384.
3 Allen, 126.
5 Allen, 409.
7 Allen, 387.
103 Mass. 282.
138 Mass. 336.

SECTION 90. The town clerk shall note upon every bond given by a constable the time when it is filed. Any person injured by a breach of the condition thereof may, at his own expense, sue thereon in the name of the town, and the proceedings shall be the same as in an action by a creditor on an administration bond. The writ shall be indorsed by him and, if he is not a resident of the commonwealth, it shall also be indorsed by a responsible resident thereof. If judgment is for the defendant, execution shall issue for costs against the indorser as if he were a plaintiff of record.

Powers and duties of constables.
C. L. 31, § 2; 150.
1692–3, 22, § 6; 28, § 11.
1711–12, 6, § 2.
1725–6, 3.
1785, 75, § 2.
1791, 58, § 12.
1795, 41, § 3; 68, § 1.
1798, 20, § 4; 33, § 2.
R. S. 15, §§ 70, 72, 76, 77.
G. S. 18, §§ 63–67.
P. S. 27, §§ 116–120.
1893, 423, §§ 30–34.
6 Pick. 483.
135 Mass. 191.

SECTION 91. Constables may serve the writs and processes described in sections eighty-eight and eighty-nine, and warrants and processes in criminal cases, although their town, parish, religious society or district is a party or interested. They shall have the powers of sheriffs to require aid in the execution of their duties. They shall take due notice of and prosecute all violations of the laws respecting the observance of the Lord's day, profane swearing and gaming. They shall serve all warrants and other processes directed to them by the selectmen of their town for notifying town meetings or for other purposes. They may serve by copy, attested by them, demands, notices and citations, and their returns of service thereof shall be prima facie evidence; but this provision shall not exclude the service thereof by other persons. 151 Mass. 212.

SECTION 92. A constable, in the execution of a warrant or writ directed to him, may convey prisoners and property in his custody under such process beyond the limits of his town, either to the justice who issued it or to the jail or house of correction of his county.
G. S. 18, § 68. P. S. 27, § 121. 1893, 423, § 35. 137 Mass. 233. 164 Mass. 209.

Constables may convey prisoners, etc., to jail, etc., out of their town.
1725–6, 3.
1795, 68, § 4.
R. S. 15, § 75.

SECTION 93. If a warrant is issued against a person for an alleged crime committed within any town, any constable thereof to whom the warrant is directed may apprehend him in any place in the commonwealth. P. S. 27, § 122. 1893, 423, § 36. 98 Mass. 5. 164 Mass. 209.

— may serve warrants in certain cases in any place.
1847, 98, § 1.
G. S. 18, § 69.

SECTION 94. Selectmen may appoint police officers who shall have all the powers of constables except that of serving and executing civil process, who shall hold office during the pleasure of the selectmen and who, when on duty, may carry such weapons as the selectmen shall authorize. 99 Mass. 592. 103 Mass. 444. 165 Mass. 183.

Police officers, appointment.
1851, 162.
G. S. 18, § 38.
P. S. 27, § 85.
1893, 423, § 7.
4 Gray, 34.
98 Mass. 5.

GENERAL PROVISIONS.

SECTION 95. Town officers shall receive such compensation, unless otherwise provided by law, as the town may determine.

Compensation of town officers.
1893, 423, § 37.

SECTION 96. A town which does not choose selectmen or assessors shall forfeit such amount, not less than one hundred nor more than five hundred dollars, as the county commissioners of the county in which the town is situated may order.
G. S. 18, § 34. P. S. 27, § 82. 1893, 423, § 38.

Penalty for not choosing selectmen or assessors.
1699–1700, 26, § 5.
1785, 50, § 3.
R. S. 15, § 35.

SECTION 97. Whoever, having been chosen to the office of assessor and not being exempt by law from holding such office, fails, after being duly summoned, to take the oath of office shall forfeit not more than fifty dollars. P. S. 27, § 104. 1893, 423, § 39.

Failure to accept office of assessor.
1785, 50, § 1.
R. S. 15, § 57.
G. S. 18, § 53.

Whoever, having been chosen to the office of constable, able to perform the duties of the office and not being exempt by law from holding the office, refuses to take the oath of office and to serve as constable shall forfeit twenty dollars. If he is present in town meeting and declares his refusal or neglects for seven days after being duly summoned, to take such oath or to pay such forfeiture, he shall be prosecuted therefor by the treasurer.

— of constable.
C. L. 55, § 3;
148, § 5.
1692–3, 28, § 8.
1756–7, 26, §§ 1, 2.
1785, 75, § 3.
R. S. 15, §§ 66, 68.
G. S. 18, § 60.
P. S. 27, § 112.
1893, 423, § 39.

Whoever, having been chosen to the office of surveyor of highways and not being exempt by law from holding such office, fails, after being duly summoned, to take the oath of office shall forfeit ten dollars. 1893, 423, § 39.

— of surveyor of highways.
C. L. 55, § 3.
1786, 81, § 1.
R. S. 15, § 81.
G. S. 18, § 74.
P. S. 27, § 126.

Whoever, having been chosen to a town office other than those above mentioned and not being exempt by law from holding such office to which he has been elected, fails, after being duly summoned, to take the oath of office shall forfeit five dollars. 7 Gray, 131.

— other town officers.
1785, 75, § 2.
R. S. 15, § 40.
G. S. 18, § 40.
P. S. 27, § 88.
1893, 423, § 39.

SECTION 98. Any person who is authorized to approve a claim against a town for labor, materials or service may, before approval thereof, require the claimant to certify under oath that all the articles for which claim is made have been furnished or that all the labor or service has been performed, and that no commission, discount, bonus, reward or present of any kind has been received, or has been promised to or expected by any person on account of the same.

Oath may be required of persons bringing demand for payment.
1862, 101, § 3.
P. S. 27, § 111.
1893, 423, § 40.

Half holidays to town employees. 1898, 367, §§ 1, 3.

SECTION 99. The selectmen may provide that the employees of their town, including laborers, mechanics and all other classes of workmen employed by the town, shall be allowed one half holiday in each week without loss of pay during such portion of the year as the selectmen determine.

ABUSE OF CORPORATE POWERS AND ILLEGAL EXPENDITURES.

Towns, how restrained from illegal appropriations of money, etc. 1847, 37. G. S. 18, § 79. P. S. 27, § 129. 1885, 312, § 5. 1891, 293. 1898, 490. 3 Cush. 530. 10 Cush. 252. 1 Allen, 103, 166. 6 Allen, 156. 10 Allen, 570. 11 Allen, 108. 99 Mass. 525.

SECTION 100. If a city or town or any of its officers or agents are about to raise or expend money or incur obligations purporting to bind said city or town, for any purpose or object or in any manner other than those for and in which such city or town has the legal and constitutional right and power to raise or expend money or incur obligations, the supreme judicial court or the superior court may, upon the petition of not less than ten taxable inhabitants of the city or town, determine the same in equity, and may, before the final determination of the cause, restrain the unlawful exercise or abuse of such corporate power.

103 Mass. 94, 141. 116 Mass. 88. 139 Mass. 341. 140 Mass. 459. 148 Mass. 285. 153 Mass. 129. 154 Mass. 410. 160 Mass. 38. 166 Mass. 347.

Investigation of illegal expenditures. 1898, 432.

SECTION 101. Upon a petition subscribed and sworn to by twenty-five owners of real estate in a town having a population of less than five thousand, or by fifty such owners in any other town, or by twenty-five such owners in each ward of a city, filed in the superior court of the county in which such city or town is situated not less than thirty days before a state, city or town election in such city or town, stating that the petitioners are owners of real estate in such city or town on which they have paid taxes within one year prior to the date of the petition and that they believe and have reason to believe that the money of the city or town is being, or has been, unlawfully or corruptly expended, and that they desire an investigation thereof, the same proceedings, so far as applicable, shall, after ten days' notice to the mayor and treasurer of such city or the selectmen and treasurer of such town, be taken as are described in section thirty-six of chapter twenty-one, and the officers of such city or town shall be governed by the provisions therein. The costs of such investigation shall be taxed by the court and paid by the city or town.

CHAPTER 26.

OF CITIES.

Powers, etc., of cities, to continue. Amend. const., art. 2. 1821, 110. R. S. 15, § 86.

SECTION 1. Cities shall, except as hereinafter expressly provided, continue to have the powers, exercise the privileges and be subject to the duties and liabilities provided in the several acts establishing them and in the acts relating thereto.

G. S. 19, § 1. P. S. 28, § 1. 160 Mass. 102.

Laws relative to towns to apply to cities. R. S. 2, § 6, cl. 17. G. S. 19, § 2. P. S. 28, § 2. 1882, 164.

SECTION 2. Chapter twenty-five and all other laws relative to towns shall apply to cities so far as consistent with the general or special laws relative thereto; and cities shall be subject to the liabilities, and city councils shall have the powers, of towns; the

mayor and aldermen shall have the powers and be subject to the liabilities of selectmen, and the city clerks, treasurers, and other city officers, those of corresponding town officers, if no other provisions are made relative to them. 103 Mass. 443. [1 Op. A. G. 463.]

SECTION 3. In cities which have a single legislative board other than a board of aldermen, such board shall, so far as appropriate and not inconsistent with the express provisions of any general or special law, have the powers, perform the duties and be subject to the liabilities of the board of aldermen. Mayor and aldermen defined.

SECTION 4. Cities which had an authorized seal in use on the tenth day of May in the year eighteen hundred and ninety-nine may continue to use such seal until changed by ordinance, and other cities shall by ordinance establish a seal of the city and designate the custodian thereof. City seal. 1899, 256, § 1.

SECTION 5. A city shall not exercise the authority conferred by section thirty-one of chapter twenty-five without the consent of two-thirds of each branch of its city council, and of a majority of the voters voting thereon at a meeting called for that purpose, at which the voting list shall be used. Contract for water supply. 1870, 93, § 1. P. S. 28, § 3.

SECTION 6. Regulations established by a city under the provisions of section fifty-four of chapter twenty-five shall be made by ordinance. Regulation of wires. 1880, 83, § 1. P. S. 28, § 4.

SECTION 7. No election of a city officer by a municipal body or board shall be valid unless made by a viva voce vote, each member who is present answering to his name when it is called by the clerk or other proper officer, stating the name of the person for whom he votes, or that he declines to vote. The clerk or other proper officer shall record every such vote. Election by municipal boards. 1899, 129, 170.

SECTION 8. If an appointment is to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, subject to confirmation or rejection by the aldermen; and upon the rejection of a person so nominated the mayor shall within one month thereafter make another nomination. Nominations by mayor. 1876, 80. P. S. 28, § 5.

SECTION 9. Every order of a city council or of either branch thereof which involves the expenditure of money, and every ordinance, order, resolution or vote to which the concurrence of the board of aldermen and of the common council may be necessary, except the question of a convention of the two branches or of the election of an officer, shall be presented to the mayor. If he approves it, he shall sign it; if he disapproves it, he shall return it, with his objections in writing, to the branch wherein it originated, which shall enter such objections at large on its records and again consider it; and if two-thirds of the members present and voting pass it, notwithstanding such objections, it shall, if it did not originally require concurrent action, be in force; but if it originally required concurrent action, it shall be sent, with the objections of the Certain ordinances, orders, etc., to be presented to mayor. 1873, 139. 1876, 193, § 1. P. S. 28, § 6. —passage over veto.

mayor, to the other branch, where it shall be again considered, and if passed by two-thirds of the members present and voting, it shall be in force; but in all cases the vote shall be by yeas and nays. Such ordinance, order, resolution or vote shall be in force if it is not returned by the mayor within ten days after it has been presented to him.

Partial vetoes. 1885, 312, § 3.

SECTION 10. If an ordinance, order, resolution, or vote of a city council, or of either branch thereof, involving the appropriation or expenditure of money or the raising of a tax, and including several items or amounts, is presented to the mayor, he may approve some of the items or amounts and disapprove others; and he shall return a statement of the items or amounts disapproved, with his objections in writing, to that branch of the city council in which the ordinance, order, resolution or vote originated. The items or amounts so disapproved shall not be in force unless passed, notwithstanding such disapproval, as provided in the preceding section.

Presiding officer of board of aldermen. 1876, 193, § 2. P. S. 28, § 7. 1882, 180.

SECTION 11. If the mayor acts as presiding officer of the board of aldermen, he shall not vote in meetings of said board nor in conventions of the two branches of the city council. The board of aldermen may elect one of its number as president, who shall, in the absence of the mayor, preside at meetings of the board. The provisions of this section shall apply to every city notwithstanding the provisions of any special law enacted prior to the twenty-ninth day of April in the year eighteen hundred and eighty-two.

Appointment of constables. 1898, 208.

SECTION 12. In a city in which the city council accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, constables shall be appointed by the mayor and aldermen.

Removal of constable. 1859, 294.

SECTION 13. The mayor, with the consent of the board of aldermen may, for gross misconduct, remove a constable from office.

G. S. 19, § 3. P. S. 28, § 8.

Bonds of constables of Boston. 1802, 7. 1860, 147. 1869, 247. P. S. 28, § 9. 5 Allen, 409.

SECTION 14. Bonds of constables in the city of Boston shall be payable to and the sureties therein approved by the city treasurer; and no constable in said city shall serve any civil process until he has given and filed such bond in a sum not less than three thousand dollars, with the approval of the mayor and aldermen indorsed thereon. 7 Allen, 387. 103 Mass. 280. 104 Mass. 376.

Tenure of office of city clerks. 1901, 332.

SECTION 15. In the year nineteen hundred and two, and in every third year thereafter, in every city which has accepted the provisions of chapter three hundred and thirty-two of the acts of the year nineteen hundred and one and which is not required to elect or appoint a city clerk in December, a city clerk shall be elected or appointed, as required by the charter of said city, for a term of three years from the day of his election or appointment. In the year nineteen hundred and four, and in every third year thereafter, in every city which has accepted the provisions of said act and which is required to elect a city clerk in December, a city clerk shall be

elected by the voters of the city for a term of three years from the beginning of the next municipal year. Such clerk shall hold his office until the election or appointment and qualification of his successor, unless sooner removed by due process of law. A person who is appointed to fill a vacancy in the office of city clerk shall hold the office until the end of the unexpired term of the person who last held the office.

Assistant city clerk.
1869, 72.
P. S. 28, § 10.

SECTION 16. A city may by ordinance establish the office of assistant city clerk, and prescribe the manner of his appointment and his powers and duties. His certificate or attestation shall have the same effect as that of the city clerk.

Payment of fees into treasury.
1888, 308, § 1.

SECTION 17. A city may by ordinance prescribe that all fees, charges or commissions allowed by law to the city clerk, city treasurer, collector of taxes or any other officer thereof shall be paid into the city treasury and belong to the city; and in such case, shall pay said officers such compensation as the city council may determine.

Ice, inspection of.
1895, 338.

SECTION 18. A city may establish ordinances to secure the inspection of ice sold within its limits and to prevent the sale of impure ice, and may affix penalties of not more than twenty dollars for each violation thereof.

Police officers, tenure of office of.
1890, 319.

SECTION 19. In any city, except the city of Boston, in which, by vote of the city council, the question of the acceptance of this section, or the corresponding provisions of earlier statutes has been or shall be submitted to and accepted by the voters at an annual city election, police officers shall hold office during good behavior and until removed by the mayor for cause deemed by him sufficient after a hearing, the provisions of any general or special act to the contrary notwithstanding.

— may serve in other places, upon requisition.
1880, 82.
P. S. 28, § 11.

SECTION 20. The mayor may, upon the requisition of the mayor and aldermen or selectmen of another city or town, provide police officers, who shall have the authority of constables and police officers within the limits of such city or town, except as to the service of civil process; and the city providing said officers shall be entitled to receive from such city or town the amount paid to them by said city for their services, including their necessary travelling expenses.

Indemnification of police officers or firemen.
1888, 379.
1893, 186.
1900, 220.

SECTION 21. A city may indemnify a police officer, fireman or a member of the fire department or a person required to assist a police officer in the discharge of his duties, to an amount not more than the amount recommended by the board or officer authorized to appoint police officers, firemen or members of the fire department of such city, for expenses or damages hitherto or hereafter sustained by him while acting as a police officer, fireman or member of the fire department or as such assistant, or which were incurred by him in the defence or settlement of an action brought against him for acts done by him while so acting.

Half holidays to employees.
1898, 367, §§ 1, 3.

SECTION 22. The city council of a city may provide that the employees of such city, including laborers, mechanics and all other

classes of workmen employed by said city, shall be allowed one half holiday in each week, without loss of pay, during such portions of the year as the city council determines.

Appropriations for sureties on official bonds. 1898, 45.

SECTION 23. A city council may appropriate money to pay a proper charge of an insurance company for acting as surety on the official bond of a city officer; and an officer authorized to approve such bonds may accept an insurance company, if qualified to do business in this commonwealth, as a sufficient surety thereon.

— for enforcement of civil service law.

SECTION 24. A city may appropriate money for the enforcement therein of the laws relating to its civil service. 1887, 345.

— for watering streets. 1890, 365. 1891, 179, §§ 1, 4. 1897, 419, § 1. 173 Mass. 71.

SECTION 25. A city may annually appropriate money for watering all or a part of its public ways or portions thereof at its expense in whole or in part and it may determine that certain other public ways or portions thereof shall be watered at the expense in whole or in part of the abutters thereon.

Assessment of expense. 1890, 365. 1891, 179, §§ 2, 4. 1897, 419, §§ 2, 3. 173 Mass. 71.

SECTION 26. If a city determines that the streets or certain streets or portions of streets shall be watered, in whole or in part at the expense of the abutters, such expense for a municipal year and the proportion thereof to be borne by abutters and the rate to be assessed upon each linear foot of frontage upon such streets or portions thereof shall be estimated and determined by the board of aldermen and assessed upon the estates abutting on such streets or portions of streets in proportion to the number of linear feet of each estate upon such street or portion thereof so watered. The amount of such assessments upon each estate shall be determined by said board, or, if said board so designates, by the board of public works, board of street commissioners, superintendent of streets or other officer; and such board or officer shall as soon as may be after the first day of May of such municipal year cause a list of such streets or portions thereof to be made, specifying each estate and the number of linear feet thereof abutting thereon, the amount per linear foot and the amount on each estate of such assessment, and certify and commit said list to the assessors of taxes.

Collection of watering rates. 1891, 179, § 3. 1897, 419, §§ 3, 4.

SECTION 27. The assessors shall assess the tax and shall include such assessment in the tax list and warrant committed by them to the collector of taxes for that municipal year, and it shall be included in the annual tax bill, or if the estate so assessed is otherwise exempt from taxation, it shall be rendered as a tax bill. Such assessment shall be a lien upon the estate, and shall be levied, collected, re-assessed, paid, apportioned, or bear interest and become payable, in the same manner as, and shall be a part of, the tax for that year on such estate; but the assessors shall make no abatement thereof except upon the recommendation of the board or officer by whom the list was certified to them.

Appropriation for armories, etc. 1861, 165. P. S. 28, § 13. 1 Allen, 103. 98 Mass. 219.

SECTION 28. The city council may, by a yea and nay vote of two-thirds of the members of each branch thereof present and voting, appropriate money for armories for the use of the state militia, for the celebration of holidays and for other public purposes to an

amount not exceeding in any one year one-fiftieth of one per cent of its valuation for such year. 140 Mass. 467. 172 Mass. 286. 106 Mass. 114. 137 Mass. 171.

SECTION 29. Except as otherwise provided by city charters, upon the death, resignation or absence of the mayor, or of his inability to perform the duties of his office, the chairman or presiding officer of the board of aldermen shall perform such duties; and if there is no such officer, or if he is also absent or unable from any cause to perform such duties, they shall be performed by the president of the common council, or, if there is no such officer, by such alderman as the board of aldermen may from time to time elect, until the mayor or chairman or presiding officer of the board of aldermen is able to attend to said duties or until the vacancy is filled as provided by law. Vacancy in the office of mayor. 1882, 182, § 1. 1896, 380, § 1.

SECTION 30. The person upon whom such duties devolve shall be called "Acting Mayor" and shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments. Acting mayor defined. 1882, 182, § 2. 1896, 380, § 2.

SECTION 31. If, in a city the city council of which votes to accept the provisions of this and the three following sections or has accepted the corresponding provisions of earlier laws, at or after the time for the mayor and aldermen to enter upon the performance of their duties, it appears that the mayor or the full number of aldermen has not been elected, such of said officers as have been elected shall issue warrants for the election of a mayor or of aldermen as necessary. If none of said officers has been elected, the president of the common council shall issue such warrants. Vacancies in board of aldermen. 1845, 217, §§ 1, 2, 4. G. S. 19, §§ 6, 11. P. S. 28, §§ 17, 22.

SECTION 32. If no mayor has been elected, the president of the board of aldermen shall perform the duties of the office until a mayor is chosen and sworn. G. S. 19, § 7. P. S. 28, § 18. If mayor is not elected, who to perform duties. 1845, 217, § 1.

SECTION 33. If there is a vacancy in the board of aldermen, in the common council, or in a city or ward office which is to be filled by an election of the people, the mayor and aldermen shall issue their warrant for elections to fill such vacancy at a time and place designated by them. Vacancies in city or ward offices, how filled. 1845, 217, § 2. G. S. 19, § 8. P. S. 28, § 19.

SECTION 34. City officers shall, notwithstanding their removal from one ward of the city into another, continue to perform their official duties during their term of office. G. S. 19, § 10. P. S. 28, § 21. Removal from ward not to disqualify city officers.

SECTION 35. The mayor or an alderman or member of the common council of a city which adopts the provisions of this section, or has adopted the corresponding provisions of earlier laws, may at the same time hold any other office under the city government to which he may be chosen, except one of emolument. Mayor, etc., may hold other offices, etc. 1851, 70. G. S. 19, § 12. P. S. 28, § 23.

SECTION 36. No member of the city council shall, during the term for which he was chosen, either by appointment or by election of the city council or of either branch thereof, be eligible to any office the salary of which is payable by the city. Ineligibility of members of city councils. 1886, 117.

Height of buildings in cities.
1891, 355.

SECTION 37. In a city, no building shall be erected to a height of more than one hundred and twenty-five feet above the grade of the street; but this restriction shall not apply to grain or coal elevators or sugar refineries, nor to steeples, domes, towers or cupolas erected for strictly ornamental purposes, of fireproof material, on buildings, of the above height or less. The supreme judicial court or the superior court shall have jurisdiction in equity to enforce, and to restrain the violation of, the provisions of this section.

City councils may regulate erection of balustrades, etc.
1848, 278.
G. S. 19, § 13.
P. S. 28, § 24.
12 Gray, 161.
117 Mass. 114.
122 Mass. 173.
128 Mass. 330.

SECTION 38. The city council may make rules and regulations for the erection and maintenance of balustrades or other projections upon the roofs or sides of buildings therein, with penalties for the violation thereof of not more than twenty dollars for each offence; but no such rule or regulation shall take effect until sixty days after it has been published in a newspaper published in the city or in the county in which the city is situated.

City officers may prosecute, etc.
R. S. 15, § 63.
1854, 87, 419.
G. S. 19, § 15.
1870, 227.
P. S. 28, § 26.
1893, 423, § 15.
111 Mass. 407.

SECTION 39. The city marshal or other police officer, or the city treasurer, may prosecute for all fines and forfeitures inuring to the city and may also prosecute for trespasses committed in any public building or enclosure within the city limits. If a public building is owned partly by the city and partly by the county, such prosecution may be made by the city or county treasurer, whoever first institutes the same.

Appointment of keepers of lock-ups in cities.
1873, 175, §§ 1, 3.
1881, 136, § 1.
P. S. 28, § 27.
1885, 323, § 2.

SECTION 40. In all cities, except Boston, the mayor, and in Boston the board of police, shall annually appoint the keeper of the lock-up as required of selectmen by section forty of chapter twenty-five, and after a neglect for three months to appoint such keeper shall forfeit thirty dollars and ten dollars additional for each subsequent month of such neglect.

CHAPTER 27.

OF MUNICIPAL INDEBTEDNESS.

Municipal indebtedness regulated.
1875, 209.
P. S. 29, § 1.

SECTION 1. Cities and towns shall not incur debts, except in the manner of voting and within the limitations as to amount and time of payment prescribed in this chapter. 144 Mass. 177. 145 Mass. 484.

Computation of limit of indebtedness.
1875, 209, §§ 6, 10.
1880, 32.
P. S. 29, §§ 2, 3.
[1 Op. A. G. 65.]

SECTION 2. The indebtedness of a city or town under the provisions of this chapter not inconsistent herewith shall be its net indebtedness as defined in clause twelve of section five of chapter eight; but debts created in aid of railroad corporations, except as herein otherwise provided, and water scrip, issued by a town under special statutes for the indebtedness of a fire district, and all other debts excepted by general or special statutes shall be excluded.

Limit of debt of cities.
1885, 312, § 2.

SECTION 3. A city shall not become indebted in an amount exceeding two and one-half per cent on the average of the assessors' valuations of the taxable property therein for the three preceding

years, the valuation of each year being first reduced by the amount of all abatements allowed thereon previous to the last day of December in the year preceding said assessment.

Limit of debt of towns.
1875, 209, § 6.
P. S. 29, § 4.

SECTION 4. A town shall not become indebted in an amount exceeding three per cent on the last preceding valuation, for the assessment of taxes, of the taxable property therein.

Limit of debt for municipal lighting.
1891, 370, § 4.

SECTION 5. A city or town which establishes, purchases, reconstructs, extends or enlarges a gas or electric lighting plant within its limits may incur debt outside the debt limit prescribed in this chapter in payment therefor to an amount not exceeding, in a town, five per cent and, in a city, not exceeding two and one-half per cent of the last preceding state valuation.

Temporary loans by majority vote.
1875, 209, § 2.
P. S. 29, § 6.
1885, 312, § 4.
1889, 372.
1891, 221.
1893, 23.
128 Mass. 503.

SECTION 6. Cities and towns may by a majority vote incur debts for temporary loans in anticipation of the taxes of the municipal year in which such debts are incurred and expressly made payable therefrom by such vote. Such loans shall be payable within one year after the date of their incurrence, and shall not be reckoned in determining the authorized limit of indebtedness.

— for payment of grade crossing damages.
1892, 178.

SECTION 7. Cities and towns may by a majority vote incur debts for temporary loans for the payment of any land damages or any proportion of the general expense of altering a crossing which they are required primarily to pay under the provisions of sections one hundred and forty-nine to one hundred and sixty, inclusive, of chapter one hundred and eleven. Such loans shall not be reckoned in determining the authorized limit of indebtedness, and when any money so paid is repaid, it shall be immediately applied to the discharge of the loan.

Other debts by two-thirds vote.
1875, 209, § 3.
P. S. 29, § 7.

SECTION 8. Debts other than those mentioned in the two preceding sections shall be incurred only by a vote of two-thirds of the voters present and voting at a town meeting, or of two-thirds of all the members of each branch of the city council, taken by yeas and nays, and subject to the approval or disapproval of the mayor.

Issue of notes, bonds and scrip.
1884, 129.
1896, 269.

SECTION 9. A city or town which has incurred a debt within the limitations as to amount and time of payment prescribed by this chapter may issue bonds, notes or scrip therefor, properly denominated on the face thereof, signed by its treasurer and, if issued by a city, countersigned by its mayor, or if issued by a town, countersigned by a majority of its selectmen, with interest payable semi-annually at such rate as it deems proper, and may sell said bonds, notes or scrip, at not less than par, at public or private sale or may use the same in payment of such debts.

Temporary loans in anticipation of sale of securities.
1898, 526.

SECTION 10. If a city or town votes to issue bonds, notes, scrip or other certificates of indebtedness in accordance with the provisions of this chapter, the officers authorized to negotiate the same may, in the name of such city or town, make a temporary loan for a period of not more than one year in anticipation of the money

to be derived from the sale of such bonds, notes, scrip or other certificates of indebtedness; but the time within which such securities shall become due and payable shall not be extended by reason of the making of such temporary loan beyond the time fixed in the vote authorizing the issue of such bonds, notes, scrip or other certificates of indebtedness.

Time of payment of debts.
1875, 209, § 4.
P. S. 29, § 8.
1891, 321; 370, § 4.
1892, 245, § 6.
1893, 225, § 3.
1894, 182, 221.

SECTION 11. Debts incurred for supplying the inhabitants with water, for acquiring land for public playgrounds under the provisions of chapter twenty-eight, for a municipal lighting plant under the provisions of chapter thirty-four, or in constructing sewers, shall be payable within thirty years: debts incurred in building school houses and other public buildings and in procuring land therefor, within twenty years; and all other debts mentioned in section eight, within ten years, or by the city of Boston, within twenty years.

Interest to be raised annually by tax. Sinking funds to be established.
1875, 209, § 4.
P. S. 29, § 9.
[1 Op. A. G. 263.]

SECTION 12. The interest on all debts shall annually be raised by taxation. If a debt is payable at a period exceeding ten years, the city or town shall, and in all other cases may, at the time of contracting the same, establish a sinking fund to be used for no other purpose than the payment of such debt, and shall annually raise by taxation and contribute thereto an amount sufficient with its accumulations to extinguish the debt at maturity; and if payable at a period not exceeding ten years, the city or town shall raise by taxation annually not less than eight per cent of the principal thereof, and shall set it apart for a sinking fund until an amount has been raised sufficient with its accumulations to extinguish the debt at maturity; and shall, in the year before the maturity of the debt, raise by taxation, any balance necessary for its extinguishment.

Annual payments in lieu of sinking fund.
1882, 133, § 1.

SECTION 13. A city or town, instead of establishing a sinking fund, may vote to provide for the payment of any debt by such annual proportionate payments as will extinguish the same at maturity, and thereupon such annual proportion shall, without further vote, be assessed under the provisions of section thirty-seven of chapter twelve until such debt is extinguished.

Sinking fund commissioners.
1875, 209, § 5.
P. S. 29, § 10.

SECTION 14. A town which establishes a sinking fund under the provisions of this chapter shall, at the time of establishing such fund, elect by ballot three or six commissioners of its sinking funds: and a city which establishes such a fund shall elect such commissioners by a concurrent vote of both branches of the city council. One-third of the number shall be elected for one, two and three years, respectively; and annually thereafter there shall be elected, for a term of three years, a number equal to the number whose term of service then expires. In case of a vacancy, the remaining member or members shall exercise the powers of the board until the vacancy is filled. The city or town treasurer shall not be eligible as a commissioner, and the acceptance by a commissioner of the office of treasurer shall operate as a resignation of the former office. The foregoing provisions as to the mode of electing commissioners

shall not apply to boards of sinking fund commissioners which were established before the thirteenth day of June in the year eighteen hundred and seventy-five. The commissioners shall choose a treasurer, who may be the city or town treasurer; and if the city or town treasurer is chosen, his bond shall apply to and include duties performed under the provisions of this chapter. If any other person is chosen treasurer, he shall give a bond, with sureties, to the satisfaction of the commissioners, for the proper performance of his official duties. They may also choose a secretary.

Duties of commissioners. Investments. 1875, 209, § 5. P. S. 29, § 11. 1894, 146.

SECTION 15. The commissioners shall have charge of all sinking funds entrusted to them by the city or town and shall invest and re-invest, in the name of the board, all amounts contributed thereto and the income thereof as it accrues, in the particular bonds, notes or scrip for the redemption of which such sinking fund was established, or in other bonds of such city or town secured by sinking funds, or in temporary loan notes or certificates of their city or town issued in anticipation of taxes, or in securities, except personal securities, in which funds of savings banks may by law be invested; but no portion of the same shall be loaned to the city or town except as herein provided; and the commissioners may sell and re-invest such securities. They shall keep a record of their proceedings; and shall annually make a written report to the city or town of the amount and condition of said funds and of the income thereof for the preceding financial year. Their records and the securities belonging to said funds shall at all times be subject to the inspection of the mayor and aldermen, selectmen, or of any committee of the city or town authorized for the purpose. No member of the board shall receive compensation for his services, but the necessary expenses of the board shall be paid by the city or town; and the treasurer and secretary thereof shall receive such compensation as shall be fixed by the city or town.

Securities to be stamped as not negotiable, etc.

When securities for the redemption of which a sinking fund has been established become a part of said sinking fund, the commissioners shall cause a notice to be stamped or written on the face thereof that they are a part of such sinking fund, and are not negotiable; and all coupons thereof, as they are paid, shall be cancelled.

Issue of new bonds to commissioners of sinking funds of cities. 1895, 243.

SECTION 16. If, when bonds payable from the sinking fund become due, the commissioners of sinking funds of a city hold any other bonds of the city not due and payable, they shall so certify to the mayor and request that new bonds be issued to them by the city in lieu of the bonds not due. If the mayor is satisfied that there is occasion therefor, he shall cause new bonds to be prepared, bearing the same rate of interest, and payable as to principal and interest on the same dates as the bonds to be surrendered, and identical in terms therewith; and when executed by him and the city treasurer and approved by the committee on finance of the city council, they shall be issued to such commissioners on the surrender by them to the city treasurer and the cancellation of such former bonds. Such cancellation and new issue of bonds shall be entered in full on the books of the city treasurer.

Cities and towns to contribute to established sinking funds. 1875, 209, § 7.

SECTION 17. Cities and towns shall continue to contribute to every sinking fund which has once been established until such sinking fund with its accumulations shall be sufficient to extinguish at maturity the debt for which it was established. P. S. 29, §§ 12, 13.

Payment of debts at earlier periods. 1875, 209, § 8. P. S. 29, § 14. 1892, 245, § 7. 142 Mass. 274.

SECTION 18. Cities and towns may pay, or provide for the payment of, any debts at earlier periods than is required in this chapter; or may renew or refund the same in securities payable within the required period; or may add to any sinking funds, for the purpose of reducing the entire debt for the redemption of which it was established or of reducing the amount to be raised by taxation for such funds, the excess of any appropriation over the amount required for the purpose thereof, or any other sums derived from taxation or from other sources, not required by law to be otherwise expended.

Loans from state sinking funds not to be made to certain towns, etc. 1875, 209, § 9. P. S. 29, § 15.

SECTION 19. No part of the sinking funds of the commonwealth shall, except for the renewal of loans existing on the thirteenth day of June in the year eighteen hundred and seventy-five, be loaned to a city or town the indebtedness of which exceeds five per cent of the last preceding annual valuation, for the assessment of taxes, of the taxable property therein; or to a city or town not complying with the provisions of this chapter; but the certificate of the treasurer of a city or town as to the percentage of its indebtedness, and as to such compliance, shall justify the treasurer and receiver general in making any such loan, unless he has reasonable cause to suppose that its statements are untrue.

Liability for lawful debts. 1875, 209, § 10. P. S. 29, § 16. 144 Mass. 179.

SECTION 20. The restrictions of the preceding sections shall not exempt a city or town from its liability to pay debts contracted for purposes for which it may lawfully expend money. [1 Op. A. G. 263.]

Cities accepting acts for water supply, how to contract debts, etc., authorized by same. 1876, 19. P. S. 29, § 18.

SECTION 21. A city which at a meeting of its voters held for that purpose has accepted, by a vote of two-thirds of the legal voters present and voting thereon, any act to supply said city with water may, by a yea and nay vote of the majority of the members of each branch of the city council, contract debts and issue bonds for the purposes and to the extent authorized by such act, in the manner provided in, and subject to the provisions of, the preceding sections.

Amount of sinking fund for sewer construction. 1892, 245, § 9.

SECTION 22. If any city, except Boston, or any town pays a part of the expense of laying, maintaining and repairing the sewers under the provisions of section twenty-seven of chapter forty-nine, the amount required to be raised annually by taxation for a sinking fund to extinguish debts incurred for the construction of such system shall be estimated upon only the proportion of said indebtedness to be paid by such city or town, but if, after the expiration of two years from the date of such debts, the amounts received annually from assessments are not sufficient to create a sinking fund sufficient at maturity to extinguish the proportion of indebtedness to be paid by assessments, such city or town shall annually raise by taxation an amount sufficient to meet such deficiency of the preceding year.

SECTION 23. No city or town shall, for the purpose of subscribing in aid of a railroad corporation, increase its indebtedness to an amount which, with its existing net indebtedness incurred for any purpose, excluding temporary loans, exceeds three per cent of the valuation of the taxable property therein as ascertained by the last preceding city or town valuation for the assessment of taxes.

Subscriptions in aid of railroads limited. 1876, 175. P. S. 29, § 19.

SECTION 24. A city or town owing debts incurred in aid of a railroad corporation may, for the purpose of paying the same, establish a sinking fund, and may contribute thereto any amounts received from sales of the stock or securities of such corporations, or from dividends or interest upon the same, or from taxes voted for the payment of such debt; and may transfer the custody and management of such stock and securities to the commissioners of its sinking fund. Such city or town shall annually raise by taxation an amount sufficient, with the income, if any, derived from its stock or securities, to pay the interest on such debts; and the remedies provided by section twenty-six shall apply to proceedings under this section.

Sinking fund for payment of such indebtedness, etc. 1876, 133. P. S. 29, §§ 20–22.

SECTION 25. A city or town which recalls and pays any of its securities, under rights reserved therein, may issue, in place of securities so recalled and paid, other securities payable at periods within the maturity of those originally issued. Such new securities shall, for debts created before the twenty-eighth day of May in the year eighteen hundred and seventy-six, be made payable within thirty years from the thirteenth day of June in the year eighteen hundred and seventy-five; and shall, for debts created after said twenty-eighth day of May, be made payable within thirty years from the time of contracting the same.

Issue of new securities for old, recalled or paid. New, when payable. 1876, 238, § 4. P. S. 29, § 23.

SECTION 26. The supreme judicial court, by mandamus or other appropriate remedy at law or in equity, upon the suit or petition of the attorney general, of the mayor, of one or more taxable inhabitants of a city or town or of any creditor to whom a city or town is indebted in an amount not less than one thousand dollars, may compel such city or town and its assessors, collectors, treasurer, commissioners of sinking funds and other proper officers to conform to the provisions of this chapter, of section fifty-four of chapter twelve and of section ten of chapter twenty-six, and to restrain or prevent the violation thereof.

Supreme judicial court may compel compliance with foregoing provisions. 1875, 209, § 11. P. S. 29, § 17. 1885, 312, § 5.

CHAPTER 28.

OF PUBLIC PARKS, PLAYGROUNDS AND THE PUBLIC DOMAIN.

SECTIONS 1–16. — Public Parks.
SECTIONS 17, 18. — Improvement of Public Grounds.
SECTIONS 19–22. — Public Playgrounds.
SECTIONS 23–29. — Public Domain.
SECTION 30. — Penalty.

PUBLIC PARKS.

Park commissioners.
1882, 154, §§ 1, 2, 13.
1890, 240.
1899, 253.
137 Mass. 450, 460.
143 Mass. 521, 526.

SECTION 1. A town in which, at a meeting called and notified at least seven days in advance in the same manner as meetings for the election of town officers, a majority of the voters, voting by ballot with the use of the voting list, adopt the provisions of the first fourteen sections of this chapter or have so adopted the corresponding provisions of earlier laws, may elect a board of park commissioners, consisting of three persons, and prescribe their terms of office; and the mayor of a city which, at meetings to be held at one time in the usual voting places of the city on such days as the board of aldermen, at a regular meeting, shall designate, called in the same manner as meetings for the election of city officers, accepts said provisions may, with the approval of the city council, appoint a board of park commissioners for said city, consisting of five persons, who shall hold office for terms of one, two, three, four and five years respectively from the first Monday in May next following such appointment, or until their successors are appointed and qualified; and thereafter the mayor shall annually, before the first Monday in May, with like approval appoint one such commissioner for a term of five years from said first Monday in May. No selectman, member of the city council, clerk or treasurer of such city or town shall be such commissioner. A vacancy in such board shall be filled in like manner for the residue of the unexpired term. A commissioner may be removed by a vote of two-thirds of the voters of a town at a meeting called for the purpose, or by a concurrent vote of two-thirds of the whole of each branch of a city council. Such commissioners shall serve without compensation.

Powers and duties.
1882, 154, § 3.
137 Mass. 450, 460.
143 Mass. 521, 526.

SECTION 2. Such boards may locate public parks within the limits of their respective cities or towns and for that purpose may from time to time take in fee, by purchase, gift, devise or otherwise, land which they consider desirable therefor, or may take bonds for the conveyance thereof to their respective cities or towns. They may lay out and improve such parks, make rules for their use and government, appoint all necessary engineers, surveyors, clerks and other officers, including a police force to act in such parks, define their powers and duties and fix their compensation, and do all acts needful for the proper execution of their powers and duties; but no land shall be taken or expenditure incurred until an appropriation sufficient for the estimated expense thereof shall have been made by a vote of two-thirds of the legal voters present and voting at a town meeting, or in a city in which the city council consists of

two branches by a vote of two-thirds of the members of each branch, and in a city in which there is a single legislative board, by a vote of two-thirds of the members thereof, present and voting thereon. Such expenditures shall not exceed the appropriations made therefor, and all contracts involving expenditures in excess of such appropriations shall be void.

Connection of park with town streets. 1893, 300, §§ 1, 3, 5.

SECTION 3. Such boards may connect any public park, boulevard or driveway, under its control, with any part of a city or town for which they are appointed by taking any connecting streets, or part thereof leading to such park, and may accept and add to such park any street or part thereof, adjoining and parallel with any boundary line of the same; but the consent of the public authorities having control of such street, and the written consent of a majority of the owners of land abutting thereon shall first be obtained. They shall have the same power and control over such streets as they have over parks, boulevards or driveways, and a city or town may invest them with the control, improvement and maintenance of any of the streets thereof for the purpose of carrying out the provisions of this section.

Additional powers.

SECTION 4. The park commissioners shall have the authority given to the mayor and aldermen, the selectmen, road commissioners, tree warden and forester, respectively, by section ten of chapter fifty-one and sections six, nine, twelve, thirteen and fourteen of chapter fifty-three, in places under their jurisdiction.

Improvement of streets; assessments. 1893, 300, § 2.

SECTION 5. They may, from time to time, levy or cause to be levied an assessment on contiguous property abutting on such streets not exceeding one-half of the first cost of improvements therein as estimated by such boards, but not for any subsequent repairs thereof. Such assessments may be apportioned into not more than four annual instalments, with interest at five per cent per annum from the date of demand until paid, and shall be collected in the same manner as other taxes or assessments.

Control of streets to revert, when. 1893, 300, § 4.

SECTION 6. If any such streets or parts thereof shall pass from the control of any such boards, the power and authority over the same granted or authorized by sections three and five shall revert to the city or town.

Taking of land; proceedings. 1882, 154, §§ 3, 4.

SECTION 7. Such boards shall, within sixty days after the taking of land under the provisions of the first fourteen sections of this chapter, file and cause to be recorded in the registry of deeds for the county or district in which such land lies a description thereof sufficiently accurate for identification. In a town no taking of land by the right of eminent domain shall be valid unless it is reported to the town, filed, accepted and allowed, as provided by section seventy-one of chapter forty-eight.

Determination of damages. 1882, 154, § 5. 143 Mass. 521, 526.

SECTION 8. Such boards shall estimate and determine all damages sustained by the taking of land or by other acts in the execution of their powers; but a person aggrieved thereby may have his damages assessed by a jury in the superior court in the

manner provided for the assessment of damages sustained by the laying out of ways. If upon a trial damages are increased beyond the award, the petitioner shall recover costs; otherwise he shall pay costs.

Fee of land to vest in city or town.
1882, 154, § 6.
143 Mass. 521, 526.

SECTION 9. The fee of land acquired for a park under the provisions of this chapter shall vest in the city or town in which it is laid out; and such city or town shall be liable for all damages assessed, as provided in the preceding section, and for all costs and expenses lawfully incurred by its board of park commissioners. A city or town may take and hold in trust or otherwise any grant, gift, bequest or devise, made for the purpose of laying out or improving any parks therein.

Public Park Loan.
1882, 154, § 9.

SECTION 10. A city council may issue from time to time, and to an amount not exceeding the sum actually expended for the purchase or taking of land for parks, bonds or certificates of debt, to be denominated on the face thereof the "PUBLIC PARK LOAN," bearing such interest and payable at such times as may be determined by said city council, which shall establish a sinking fund sufficient, with the accumulating interest, to provide for the payment of such loan at maturity. All amounts received for betterments which accrue by the laying out of parks under the provisions of this chapter shall be paid into such sinking fund.

Parks to be perpetual.
1882, 154, § 10.
1893, 75.

SECTION 11. Land taken for or held as a park by cities and towns under the provisions of this chapter shall be forever kept open and maintained as public parks; but, except in parks in the city of Boston and in parks comprising less than one hundred acres in extent, structures for shelter, refreshment and other purposes may be erected of such material and in such places as, in the opinion of the fire commissioners, if any, do not endanger buildings beyond the limits of such park; and the provisions of section twenty of chapter fifty-three shall not apply to such buildings. No street or way and no steam railroad or street railway shall be laid out over any portion of such park except in places and in the manner approved by the board of park commissioners.

Military encampments.
1882, 154, § 11.

SECTION 12. No military encampment, parade, drill, review or other military evolution or exercise shall be held or performed on any park laid out as aforesaid, nor shall any military body, except in case of riot, insurrection, rebellion or war, enter or move in military order therein without the consent of such board.

Annual reports.
1882, 154, § 12.

SECTION 13. Such boards shall make reports of their respective doings and detailed statements of all receipts, expenditures and liabilities for the preceding year in towns, at the annual town meetings and at such other times as the town directs, and in cities, to the city council annually, in December.

Ballots on acceptance of chapter.
1882, 154, § 13.

SECTION 14. Ballots on the acceptance of this and the preceding sections of this chapter shall be "yes" or "no" in answer to the question, "Shall sections one to fourteen, inclusive, of chapter twenty-eight of the Revised Laws, authorizing cities and towns to

lay out public parks within their limits, be accepted?" The ballots cast shall be assorted, counted, and public declaration made thereof in the manner prescribed in sections two hundred and thirty-six to two hundred and forty-one, inclusive, of chapter eleven.

Second meeting, when. 1882, 154, § 14.

SECTION 15. A second meeting for the purpose of voting upon the acceptance of said sections shall not be called within twelve months after the first, unless the first meeting fails through illegality or irregularity in the proceedings.

Building line on parkways. 1896, 313. 1897, 379.

SECTION 16. In a city which by a vote of its city council, or in a town which by vote of a town meeting, accepts this section, or has accepted the corresponding provisions of earlier laws, the board of park commissioners may, in accordance with the provisions of section one hundred and three of chapter forty-eight, establish a building line distant at no point more than twenty-five feet from any exterior line of a parkway, boulevard or public way on which a park abuts; and the extreme height to which buildings upon such parkway, boulevard or public way may be erected shall be seventy feet exclusive of such steeples, towers, domes, cornices, parapets, balustrades, sculptured ornaments, chimneys and roofs as such board may approve. Whoever sustains damage by the establishment of such building line shall have the same remedy therefor as if his land were taken for the laying out of a highway.

IMPROVEMENT OF PUBLIC GROUNDS.

Improvement of public grounds in towns. 1885, 157, § 1.

SECTION 17. A town having public grounds or open spaces in any of its streets, highways or town ways, which have been or may be designated by it as not needed for public travel, may give the improvement thereof to corporations within its limits organized under the provisions of section nineteen of chapter one hundred and twenty-four, which, under the direction of the selectmen or road commissioners, shall have the use, care and control thereof and may grade, drain, curb and fence the same, set out shade or ornamental trees, lay out flower plats and otherwise improve them.

Penalty for injury, etc. 1885, 157, §§ 2, 3.

SECTION 18. Any person who wilfully or maliciously drives cattle, horses or other animals, or any team or vehicle on or across such grounds or ways, or destroys or removes any fence or railing on such grounds or ways, or plays ball or other games thereon, or otherwise interferes with or injures the work of the corporation having the care of the property so injured shall be punished by a fine of not more than twenty dollars, which shall be paid over to such corporation.

PUBLIC PLAYGROUNDS.

Public playgrounds. 1893, 225, §§ 1, 2.

SECTION 19. The board of park commissioners, if any, otherwise the city or town may take land within the municipal limits, in fee or otherwise, by gift, purchase or by the right of eminent domain, or lease the same, and maintain it as a public playground; but no land shall be so taken or leased until an amount equal to the estimated cost thereof has been appropriated by the city or town. The city or town or board of park commissioners, as the

case may be, shall, within sixty days after the taking of land, under the provisions of this section, file and cause to be recorded in the registry of deeds for the county or district in which the land lies a description thereof sufficiently accurate for identification and a statement of the purpose for which it was taken.

Damages, assessment and costs. 1893, 225, § 2.

SECTION 20. Said board, or if there is none, the city council of a city or the selectmen of a town shall estimate and determine the damages sustained by such taking of land; but a person aggrieved thereby may have his damages assessed in the manner provided for the assessment of damages sustained by the laying out of ways if suit therefor is brought within two years after the recording of such taking. If upon a trial, damages in excess of the award shall be recovered, the petitioner shall recover costs; otherwise he shall pay them.

Indebtedness beyond limit authorized. 1893, 225, § 3.

SECTION 21. A city or town, except the city of Boston, may, in order to meet the expense of acquiring land for the purposes named in section nineteen, incur indebtedness beyond the limit of municipal indebtedness to an amount not exceeding one-half of one per cent of its assessed valuation. It shall not be necessary to establish a sinking fund for the payment of the same unless the city or town so votes.

Public play grounds. 1893, 331.

SECTION 22. If in a town in the metropolitan parks district as defined in section three of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, or in any city, tenement buildings are built about or contiguous to open spaces, the owners of such buildings may apply to the board of park commissioners, if any, or, in a city or town of said district having no park commission, to the metropolitan park commission, and said boards may, with the approval of the board of health of the city or town, take a lease of such open spaces for a neighborhood playground for a term not exceeding fifteen years, subject to renewal, at a rental not exceeding the taxes thereon. The owners of such buildings shall have the care and control thereof under the supervision of the board of park commissioners, or if there is none, of the selectmen.

PUBLIC DOMAIN.

Public domain, taking, purposes, title. 1882, 255, §§ 1, 6.

SECTION 23. A town, by a vote of two-thirds of the legal voters present and voting at a town meeting, or a city in which the city council consists of two branches, by a vote of two-thirds of the members of each branch, and a city in which there is a single legislative board, by a vote of two-thirds of the members thereof, present and voting thereon, may take or purchase land within their limits, which shall be a public domain, and may appropriate money and accept gifts of money and land therefor. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town and the title thereto shall vest in the commonwealth for the benefit of the city or town in which it lies.

Description of land to be filed; damages. 1882, 255, § 2.

SECTION 24. A description of the land taken, sufficiently accurate for its identification, shall, within sixty days after such taking,

be filed by such city or town in the registry of deeds for the county or district in which the land is situated and shall be recorded therein. Damages occasioned by such taking may be recovered as provided in the case of the taking of land for a highway.

Board of agriculture to act as board of forestry. 1882, 255, § 3.

SECTION 25. The state board of agriculture shall act as a board of forestry, without pay, except for necessary travelling expenses, and shall have the supervision and management of all such public domains. It shall make regulations for their care and use, and for the planting and cultivating of trees therein, and shall appoint one or more keepers, who, under its direction, shall have charge of each public domain, enforce its regulations, perform such labor thereon as it requires; and who shall, within such public domain, have the power of constables and police officers in towns.

—may lease buildings, sell products, etc. 1882, 255, § 4.

SECTION 26. Said board may lease any building on a public domain and shall apply all sums derived from rents or from the sale of the products of any such domain, so far as necessary, to the management thereof; but it shall not expend thereon in any year a sum larger than it so receives. The surplus remaining in any year shall be paid over to the city or town in which such domain is situated.

Buildings. 1882, 255, § 5.

SECTION 27. The city or town in which any such public domain is situated may, with the approval of said board, erect thereon any building for public instruction or recreation.

Expenditure limited. 1882, 255, § 6.

SECTION 28. No land shall be taken or purchased for a public domain, no building erected thereon and no expenditures authorized or made or liability incurred therefor until an amount sufficient to cover the estimated expense thereof in a town has been appropriated therefor as provided in section twenty-three; and all contracts made for expenditures in excess thereof shall be void. The expenditures shall not exceed the appropriations therefor.

Public Domain Loan. 1882, 255, § 7.

SECTION 29. For the purpose of defraying the expenses incurred under provisions of the six preceding sections any city or town may issue from time to time, and to an amount not exceeding the sum actually expended for the taking or purchase of lands for such public domain, bonds or certificates of debt, to be denominated on the face thereof the "Public Domain Loan," bearing such interest and payable at such times as may be determined by such town or by such city council which shall establish a sinking fund, sufficient, with the accumulating interest, to provide for the payment of such loan at maturity. All amounts received by the city or town on account of such public domain shall be paid into its sinking fund.

PENALTY.

Penalty for violation of rules of parks. 1896, 199.

SECTION 30. Whoever violates any rule or regulation for the government or use of any public reservation, parkway or boulevard made under authority of law by any board or officer in charge thereof shall, for each offence, be punished by a fine of not more than twenty dollars.

CHAPTER 29.

OF THE RETURN AND REGISTRY OF BIRTHS, MARRIAGES AND DEATHS.

Facts to be recorded by city and town clerks.
A. C. 43.
C. L. 130, § 2.
1692-3, 48.
1695-6, 2.
1795, 69, § 1.
R. S. 15, § 46.
1844, 159, § 1.
1849, 202, § 1.
G. S. 21, § 1.
P. S. 32, § 1.
1887, 202, § 5.
1890, 402.
1897, 444, § 1.
24 Pick. 127.

SECTION 1. Each city and town clerk shall receive or obtain and record in separate columns the following facts relative to the births, marriages and deaths in his city or town: —

In the record of births, the date of the record, the date of birth, the place of birth, the name of the child, the sex and color of the child, the names and places of birth of the parents, including the maiden name of the mother, the occupation of the father, and the residence of the parents. In the record of the birth of an illegitimate child the name of, and other facts relating to, the father shall not be recorded except at the request in writing of both father and mother. The term "illegitimate" shall not be used in the record of a birth unless the illegitimacy has been legally determined, or has been admitted by the sworn statement of both the father and mother.

In the record of marriages, the date of the record, the date of the marriage, the place of the marriage, the name, residence and official station of the person by whom it was solemnized, the names and places of birth of the parties married, the residence of each, the age and color of each, the number of the marriage (as the first or second) and if previously married, whether widowed or divorced, the occupation of each and the names of their parents, and the maiden names of the mothers. If the woman is a widow or divorced, her maiden name shall also be given.

In the record of deaths, the date of the record, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed, married or divorced), the supposed age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the maiden name of the mother, the disease or cause of death, the place of burial, the name of the cemetery, if any, and if the deceased was a married or divorced woman or a widow, her maiden name and the name of her husband. The word "residence", as used in this section, shall be held to include the name of the street and the number, if any, of the house on the street.

Separate record and indexes.
1887, 202, § 2.
1897, 444, §§ 1, 2, 16.

SECTION 2. Births, marriages and deaths shall be recorded separately, separate indexes thereof shall be kept and each entry shall be numbered in its order. All returns of births, marriages and deaths shall be preserved by the city or town clerk and conveniently arranged for examination.

Returns of births monthly.
1865, 96.
1880, 33, §§ 1, 3.
P. S. 32, §§ 7, 9.
1883, 158, § 1.
1889, 288.
1897, 444, § 3.

SECTION 3. Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the preceding month at whose birth they were present, stating the date and place of each birth, the name, if any, of the child, its sex and color, and the name, place of birth and residence of the parents, the maiden name of the mother, and the occupation of the father. If the child is illegitimate the name of, and other facts relating to, the father shall

not be stated, except at the request in writing of both father and mother, filed with the return. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, which shall be paid by the city or town where the report is made, upon presentation to the city or town treasurer of a certificate from the city or town clerk, stating that said births have been properly reported to him. A physician or midwife who neglects to report such list on or before the fifteenth day of the month shall for each offence forfeit not more than twenty-five dollars.

Information as to births required. 1897, 444, § 4.

SECTION 4. A member or servant of a family in which a child is born, who has knowledge of the facts required for record relative to such birth, shall furnish the same upon request of the clerk of the city or town in which such child was born or its parents reside, or of any person authorized by him. Such member or servant of a family who refuses to furnish such facts shall for each offence forfeit not more than ten dollars.

Clerks to obtain facts as to births. 1897, 444, § 5.

SECTION 5. The clerk of each city and town shall annually in January ascertain the facts required for record by section one relative to all children born therein in the preceding year.

Notice of births and deaths. C. L. 130, § 2. 1692-3, 48. 1795, 69, § 2. R. S. 15, § 47. G. S. 21, § 2. P. S. 32, § 2. 1897, 444, § 6.

SECTION 6. Parents, within forty days after the birth of a child, and every householder, within forty days after a birth in his house, shall cause notice thereof to be given to the clerk of the city or town in which such child is born. Every householder in whose house a death occurs and the oldest next of kin of a deceased person in the city or town in which the death occurs shall, within five days thereafter, cause notice thereof to be given to the board of health, or, if the selectmen constitute such board, to the town clerk. The keeper, superintendent or person in charge of a workhouse, house of correction, prison, reformatory, hospital, almshouse or other institution, public or private, which receives inmates from within or without the limits of the city or town in which it is located shall, when a person is received, obtain a record of all the facts which would be required for record in the event of the death of such person, and shall, on or before the fifth day of each month, give notice to the city or town clerk of every birth and death among the persons under his charge during the preceding month. The facts required for record by section one shall, so far as known or obtainable, be included in every notice given under the provisions of this section.

Master to report births and deaths on vessel. 1692-3, 48. 1795, 69, § 2. R. S. 15, § 47. G. S. 21, § 2. P. S. 32, § 2. 1897, 444, § 7.

SECTION 7. The master or other commanding officer of a vessel shall give notice, with the facts required for record, of every birth or death happening among the persons under his charge. The notice of a birth shall be given to the clerk, and the notice of a death shall be given to the board of health or, if the selectmen constitute such board, to the clerk of the city or town at which his vessel first arrives after such birth or death.

Penalty for neglect to report. 1795, 69, § 2. R. S. 15, § 47. G. S. 21, § 2.

SECTION 8. A parent, keeper, superintendent or other person who is required by section six to give or cause to be given notice of a birth or death, who neglects so to do for ten days after the time limited therefor, and the master or commanding officer of a

P. S. 32, § 2.
1897, 444, § 8.

vessel who neglects so to do for ten days after the arrival of his vessel at the place where notice is to be given, shall forfeit not more than five dollars for each offence.

Deficiencies in record may be supplied; clerical errors corrected.
1897, 444, § 9.

SECTION 9. The clerk of a city or town may enter upon the record relating to a person born therein any information obtained in writing by the canvass required by section five, or by his own efforts, which is needed to supply deficiencies in said records, but he shall make no changes in facts already recorded except as provided in section fourteen or except to correct errors in copying from certificates or returns on file in his office. If an error in copying is corrected a statement that the correction is made to correct an error in copying shall be entered upon the record over the signature of the clerk.

Physician to give death certificate.
G. S. 21, § 3.
P. S. 32, § 3.
1888, 63; 306, § 1.
1893, 263, § 1.
1897, 444, § 10.

SECTION 10. A physician shall forthwith, after the death of a person whom he has attended during his last illness, at the request of an undertaker or other authorized person or of any member of the family of the deceased, furnish for registration a certificate, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, the duration of his last illness, and the date of his death. A physician who has attended at the birth of a child dying immediately thereafter, or a physician or midwife who has attended at the birth of a child born dead, shall forthwith furnish for registration a certificate, stating that to the best of his or her knowledge and belief such child either died immediately after birth or was born dead. Both the birth and death of such child shall be recorded and, if it was born dead, the word "stillborn," shall be entered in both the record of birth and death. A physician or midwife who neglects or refuses to make such certificate or who makes a false statement therein shall forfeit not more than fifty dollars.

— to state causes of death of soldier or sailor.
1889, 224.
1897, 444, § 11.

SECTION 11. A physician who furnishes a certificate as required by the preceding section shall, if the deceased was a soldier or a sailor who served in the war of the rebellion, give both the primary and the secondary or immediate cause of death as nearly as he can state the same, and for neglect thereof shall forfeit ten dollars.

Undertakers to make returns, etc.
1844, 159, § 4.
1849, 202, § 3.
G. S. 21, § 4.
1872, 275, § 1.
1873, 202.
P. S. 32, § 4.
1897, 444, § 12.

SECTION 12. Every undertaker or other person who has charge of a funeral shall forthwith obtain the physician's certificate required by section ten, enter thereon the facts relative to the deceased which are required by section one to be recorded, and return it to the board of health or its agent, unless it is composed of the selectmen, and in such case, to the clerk of the city or town in which the death occurred. The person making such return shall receive from the city or town a fee of twenty-five cents. The board of health shall transmit such certificate to the city or town clerk.

Copies of records of births and deaths of non-resident parents or decedents.
1889, 208.
1897, 444, § 13.

SECTION 13. The clerk of each city and town shall forthwith make certified copies of the records of all births and deaths recorded during the previous month, if the parents of the child born or the deceased were residents of any other city or town in this commonwealth or in any other state at the time of said birth or death,

and transmit them to the clerk of the city or town of which such parents or deceased person were resident at the time of said birth or death, stating, if practicable, the name of the street and number of the house, if any, where such parents or deceased person so resided; and the clerk of a city or town in this commonwealth so receiving such certified copies, or certified copies of births, marriages or deaths, from the clerk of a city or town without the commonwealth, shall record the same.

Correction of errors in record. 1892, 305, § 1. 1894, 402. 1897, 444, § 14.

SECTION 14. If the record relating to a birth, marriage or death does not contain all the required facts, or if it is alleged that the facts are not correctly stated therein, the city or town clerk shall receive an affidavit containing the facts required for record, if made by a person who was required by law to furnish the information for the original record, or, at the discretion of the city or town clerk, by one or more credible persons having knowledge of the case. He shall file such affidavit and record it in a separate book to be kept for that purpose, with the name and residence of the deponent and the date of such record, and shall thereupon draw a line through the incorrect statements without erasing them, shall enter upon the original record the facts required to amend the record and forthwith, if a copy of the record has been sent to the secretary of the commonwealth, shall forward to the secretary a certified copy of the corrected record upon blanks to be provided by him and he shall thereupon amend the record in his office and state in the margin thereof his authority therefor. Reference to the record of the affidavit shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such record, he shall certify to the facts contained therein as amended, and shall state in addition that the certificate is issued under the provisions of this section, a copy of which shall be printed on every such certificate. Such affidavit, or a certified copy of the record of any other city or town or of a written statement made at the time by any person since deceased who was required by law to furnish evidence thereof, may, at the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of record may also be made the basis for completing the record of a birth, marriage or death which does not contain all the required facts.

Penalty for false return. 1897, 444, § 15.

SECTION 15. Whoever wilfully makes a false return relative to a birth, marriage or death shall forfeit not more than fifty dollars.

Clerks to provide blanks for returns of births.

SECTION 16. Each city and town clerk shall annually give public notice that he will furnish blanks for returns of births to parents, householders, physicians and midwives who apply therefor.

1880, 33, § 2. P. S. 32, § 8. 1897, 444, § 17.

Secretary to provide blanks and forms. 1842, 95, § 2. 1844, 159, §§ 6, 7. 1849, 202, § 5. G. S. 21, § 9. P. S. 32, § 14. 1897, 444, § 18. 1900, 333.

SECTION 17. The secretary of the commonwealth shall, at the expense of the commonwealth, prepare and furnish to the clerks and boards of health of cities and towns, and to the superintendent of the state hospital, record books, books for indexes thereto, forms for returns, on paper of uniform size, and any necessary instructions and explanations. City and town clerks shall distribute the blank

forms as the secretary shall direct. A city or town may provide such books and forms if they conform to those prepared by the secretary.

Copies of records to secretary.
1842, 95, § 1.
1844, 159, § 1.
1849, 202, § 5.
G. S. 21, § 5.
1875, 21.
P. S. 32, § 10.
1894, 206.
1897, 444, § 19.
1901, 167.

SECTION 18. The clerk of each town and of each city containing less than thirty thousand inhabitants shall annually, on or before the first day of March, the clerks of cities containing more than thirty thousand and less than one hundred thousand inhabitants, on or before the first day of April, and the clerks of cities containing one hundred thousand inhabitants or more, on or before the first day of May, transmit to the secretary of the commonwealth certified copies of the records of births, marriages and deaths recorded therein during the preceding calendar year, with certified copies, upon blanks provided by the secretary, of all such records and corrections in records of births, marriages and deaths as may not have been previously returned.

—to be legibly written.
1897, 444, § 20.

SECTION 19. The secretary of the commonwealth shall require all copies which are transmitted under the provisions of the preceding section to be written in a fair and legible hand, and a city or town clerk who neglects or refuses to make or cause to be made fair and legible copies as required shall forfeit not less than twenty nor more than one hundred dollars, to the use of the commonwealth.

Clerk's record to be prima facie evidence.
R. S. 75, § 25.
G. S. 21, § 6.
P. S. 32, § 11.
1897, 444, § 21.
10 Allen, 164.

SECTION 20. The record of the city or town clerk relative to a birth, marriage or death shall be prima facie evidence of the facts recorded. A certificate thereof, signed by the city or town clerk or assistant clerk, shall be admissible as evidence of such record.

122 Mass. 58. 133 Mass. 247. 141 Mass. 479. 142 Mass. 468. 163 Mass. 456.

Superintendent of state hospital to make records and returns.
1855, 366.
G. S. 21, § 8.
P. S. 32, § 13.
1897, 444, § 22.

SECTION 21. The superintendent of the state hospital shall obtain, record and make return of the facts relative to the births and deaths in said hospital in the same manner as town clerks. The clerk of the town in which such hospital is located shall, relative to the births and deaths therein, be exempt from the duties otherwise required of him by this chapter.

Secretary to bind copies. Report.
1842, 95, § 2.
1844, 159, § 7.

SECTION 22. The secretary shall cause the copies received by him for each year to be bound, with indexes thereto. He shall tabulate the subject matter and make report thereof annually to the general court. 1849, 202, § 5. G. S. 21, § 10. P. S. 32, § 15. 1897, 444, § 23.

Registrar in certain cities and towns.
1849, 202, § 1.
G. S. 21, § 11.
P. S. 32, § 16.
1892, 314.
1897, 444, § 24.

SECTION 23. Any city, except Boston, and any town containing more than ten thousand inhabitants, may choose or provide for the appointment of a person other than the clerk to be registrar. In Boston, the mayor with the approval of the board of aldermen shall appoint a registrar under the provisions of chapter three hundred and fourteen of the acts of the year eighteen hundred and ninety-two. The returns and notices required to be made by, and given to, clerks shall be made and given to such registrars, who shall be sworn and to whom all the provisions of this chapter relative to clerks shall apply.

SECTION 24. The city or town clerk shall give written notice of the requirements of this chapter to any person who neglects to comply therewith, and upon the continuance of such neglect for one month shall notify the agent or attorney duly appointed by the city or town to sue in its corporate capacity, or, if there is no such agent or attorney, the district attorney of his district, who shall cause a prosecution for the penalty or forfeiture therefor to be instituted.

Proceedings on refusal to report.
1897, 444, §§ 25, 26.

SECTION 25. In any statement of births and deaths printed by a city or town the name of an illegitimate child or of its parents or of the parents of a stillborn child shall not be printed, but the word "illegitimate" or "stillborn" shall be used in place thereof. A city or town which violates the provisions of this section shall forfeit to the mother of such child not more than one hundred dollars.

Omission of name of illegitimate, etc., child.
1897, 444, § 27.

SECTION 26. All forfeitures recovered under the provisions of this chapter shall, except as provided in sections nineteen and twenty-five, accrue to the benefit of the city or town in which the required return should have been made.

Disposition of forfeitures.
1897, 444, § 28.

SECTION 27. The city or town clerk shall receive the following fees from the city or town upon presenting to the city or town treasurer a certificate of the receipt of the prescribed copies by the secretary of the commonwealth: for each marriage, twenty cents; for each birth, fifty cents; for each death returned to him by an undertaker or the board of health, twenty cents; for each death not so returned but obtained and recorded by him, fifty cents. He shall also receive from the city or town the following fees: for each certificate transmitted under the provisions of section thirteen, twenty-five cents; for receiving and recording an affidavit and forwarding a copy thereof under the provisions of section fourteen, fifty cents; for sending the notice required by section twenty-four, twenty-five cents; for each oath administered in his capacity as clerk, twenty-five cents. A city, or a town containing more than ten thousand inhabitants, may limit the aggregate compensation allowed to its clerk. A city or town clerk shall forfeit not less than twenty dollars nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

Fees of city and town clerks.
1842, 95, § 1.
1844, 159, §§ 5, 8.
1849, 202, §§ 2, 3.
G. S. 21, § 7.
1866, 138, § 1.
1875, 145, 341.
P. S. 32, § 12.
1897, 444, § 29.
141 Mass. 479.

SECTION 28. An oath which is required by the provisions of this chapter may be administered by the clerk or assistant clerk of a city or town.

Oath, administration of.
1897, 444, § 30.

SECTION 29. City and town clerks or registrars shall attest their copies of the record of births, marriages or deaths with the official seal of the city or town.

Attestation of copies under seal.
1898, 389, § 3.

CHAPTER 30.

OF WORKHOUSES AND ALMSHOUSES.

Workhouses or almshouses; commitments thereto.
1743-4, 12, §§ 1, 8.
1788, 30, §§ 7, 11.
1828, 142, § 3.
R. S. 16, §§ 1, 22; 46, § 4.
1852, 275.
1857, 153.
G. S. 22, §§ 1, 22.
P. S. 33, §§ 1, 22.
8 Allen, 73.
127 Mass. 4.
137 Mass. 175.
151 Mass. 507.
152 Mass. 503.

SECTION 1. A city or town may erect or provide a workhouse or almshouse for the employment and support of indigent persons maintained by or receiving alms from it; of persons who, being able to work and not having estate or means otherwise to maintain themselves, refuse or neglect to work; of persons who live a dissolute, vagrant life and exercise no ordinary calling or lawful business; of persons who spend their time and property in public houses to the neglect of their proper business or who, by otherwise misspending their earnings, are likely to become chargeable to the city or town; and of other persons sent thereto under any provisions of law.

Location of almshouse.
1848, 291.
G. S. 22, § 2.
P. S. 33, § 2.

SECTION 2. No city or town shall erect or maintain an almshouse or house of correction within the limits of any other city or town, without the consent of the latter.

Directors of workhouse, master, etc.
1743-4, 12, § 1.
1788, 30, § 1.
R. S. 16, §§ 2, 3.
G. S. 22, § 3.
P. S. 33, § 3.
152 Mass. 503.

SECTION 3. A city or town which has a workhouse or almshouse may annually choose three, five, seven or more directors, who shall have the management thereof and who may appoint a master and assistants. If such directors are not chosen, the overseers of the poor shall be the directors.

Meetings of directors.
1743-4, 12, § 1.
1788, 30, § 1.
R. S. 16, § 4.
G. S. 22, § 4.
P. S. 33, § 4.

SECTION 4. The directors shall hold general meetings at least once in every month at which they may make orders and regulations for the house, which shall be binding until the next meeting of the town or of the city council, when the same shall be submitted to such meeting, and if approved shall remain in force until revoked by the town or by the city council.

Joint workhouses.
1743-4, 12, § 2.
1788, 30, § 2.
1828, 142, § 3.

SECTION 5. Any number of cities or towns may, at their joint charge and for their common use, erect or provide a workhouse or almshouse and purchase land for the use thereof.

R. S. 16, § 5; 46, § 4. G. S. 22, § 5. P. S. 33, § 5. 127 Mass. 4.

Joint board of directors.
1743-4, 12, § 2.
1788, 30, § 2.
R. S. 16, § 6.
G. S. 22, § 6.
P. S. 33, § 6.

SECTION 6. The management and repair of such house and the appointment, or removal for sufficient cause, of a master and assistants shall be vested in a joint board of directors, who shall be chosen annually by the several cities and towns interested.

Each place to choose three directors, etc.
1743-4, 12, § 2.
1788, 30, § 2.
R. S. 16, §§ 7, 8.
G. S. 22, § 7.
P. S. 33, § 7.

SECTION 7. Unless all the cities and towns interested in such house agree to choose a different number, each of them shall choose three members of the board; and upon the death of a director, or his removal from the place for which he was chosen, the vacancy may be filled by such city or town. If a city or town neglects to choose directors, those chosen by the other cities and towns shall have the whole charge of the house.

Meetings of directors.
1743-4, 12, § 3.

SECTION 8. Quarterly meetings of the board shall be held on the first Tuesday of January, April, July and October at the workhouse

or almshouse under its charge, for the purpose of inspecting the management and directing the business thereof. Meetings may be called at other times by the directors chosen by any city or town interested, by giving notice of the time and purpose thereof to the other members in the manner fixed by the by-laws.

1788, 30, § 3. R. S. 16, § 9. G. S. 22, § 8. P. S. 33, § 8.

SECTION 9. The board of directors may choose a moderator, and at their first general meeting they shall appoint a clerk, who shall be sworn and shall record all votes and orders of the board.

Moderator and clerk. 1743-4, 12, § 4. 1788, 30, § 3. R. S. 16, § 10.

G. S. 22, § 9. P. S. 33, § 9.

SECTION 10. If one-half of the members are present, at a quarterly meeting, they may make reasonable orders and by-laws, not inconsistent with law, for ordering and regulating the house under their charge, establishing the manner of calling meetings, and determining the compensation of the master and assistants.

By-laws, etc. 1743-4, 12, § 5. 1788, 30, § 4. R. S. 16, §§ 11, 12. G. S. 22, § 10. P. S. 33, § 10.

SECTION 11. Other matters may be acted upon at any meeting duly notified, if one-third of the members are present; but the doings of such meetings may be altered or revised at any general meeting.

Boards may act upon other matters. 1743-4, 12, § 5. 1788, 30, § 4.

R. S. 16, § 12. G. S. 22, § 11. P. S. 33, § 11.

SECTION 12. The compensation of the master and assistants, and also the expense of keeping the house in repair, shall be paid by the several cities and towns interested, in proportion to their state tax at the time when the expense was incurred, or in such proportion as they shall agree.

Compensation, by whom paid. 1743-4, 12, § 6. 1788, 30, § 5. R. S. 16, § 13. G. S. 22, § 12. P. S. 33, § 12.

SECTION 13. If a city or town refuses or neglects to advance or reimburse its proportion of the sums of money mentioned in the preceding section, or of any other charges mentioned in this chapter, after it has been adjusted by the joint board of directors, the same may be recovered in an action of contract brought by any person whom the board in writing appoints for that purpose.

Remedy against places neglecting to pay. 1743-4, 12, § 6. 1788, 30, § 5. R. S. 16, § 14. G. S. 22, § 13. P. S. 33, § 13.

SECTION 14. No greater number of persons belonging to a city or town shall be received into such workhouse or almshouse than such city's or town's proportion of such house, when it would exclude or be inconvenient to such as belong to the other cities or towns interested.

Number of inmates to be proportional. 1743-4, 12, § 7. 1788, 30, § 6. R. S. 16, § 15. G. S. 22, § 14. P. S. 33, § 14.

SECTION 15. During the time that a city or town refuses or neglects to provide its proportion of the necessary expenses of such house, or of the materials, implements or other means for performing the work there required according to its agreement or to the directions of the joint board of directors, it shall not send any person thereto.

Refusal to contribute, forfeits right to use house. 1743-4, 12, § 9. 1788, 30, § 8. R. S. 16, § 16. G. S. 22, § 15. P. S. 33, § 15.

SECTION 16. Each city or town may provide, for the employment of inmates, such additional materials, implements and means of work as the overseers of the poor thereof may choose; and the master of the house shall receive them and keep them separate from those of the other cities and towns and shall be accountable to each city and town interested for the cost and for all profits and earnings of the inmates of said house from such place.

Each place may furnish materials, etc., for persons committed by it. 1743-4, 12, § 10. 1788, 30, § 9. R. S. 16, § 17. G. S. 22, § 16. P. S. 33, § 16.

Register of inmates.
1743-4, 12, § 10.
1788, 30, § 9.
R. S. 16, § 18.
G. S. 22, § 17.
P. S. 33, § 17.
1901, 177.

SECTION 17. Each master shall keep a register, in a form prescribed by the state board of charity, of the names of the persons committed or received, the cities or towns to which they belong, the dates of their reception and discharge, and of their respective earnings, and shall submit it to the overseers of the poor at their request.

Controversies.
1743-4, 12, § 10.
1788, 30, § 9.
R. S. 16, § 19.
G. S. 22, § 18.
P. S. 33, § 18.

SECTION 18. Controversies between a master and the overseers of the poor of any city or town relative to the accounts or other official doings of the master shall be determined by the directors of the house at their general or quarterly meeting.

Profits and earnings, how appropriated.
1743-4, 12, § 12.
1788, 30, § 12.
R. S. 16, § 23.
G. S. 22, § 19.
P. S. 33, § 19.

SECTION 19. The profits and earnings of inmates of a workhouse or almshouse shall, with the stock remaining on hand, be disposed of as the overseers of the poor of the several cities or towns shall think proper, either to the use of their cities or towns, of the persons committed or of the families of such persons.

Discharge of inmates.
1743-4, 12, § 11.
1788, 30, § 10.
R. S. 16, § 20.
G. S. 22, § 20.
1880, 221, § 3.
P. S. 33, § 20.

SECTION 20. No person who has been committed to a workhouse shall be discharged within the time for which he was committed except under the provisions of section one hundred and twenty of chapter two hundred and twenty-five, or by the court or justice who made the commitment, by the directors of the house at their general or quarterly meeting or by the superior court held in the county where such house is situated, and for good cause shown upon application for that purpose.

Inmates to be employed. Discipline.
1743-4, 12, § 11.
1788, 30, § 10.
R. S. 16, § 21.
G. S. 22, § 21.
P. S. 33, § 21.

SECTION 21. Every person who has been committed to a workhouse shall, if able to work, be kept diligently employed in labor during the term of his commitment. If he is idle and does not perform such reasonable task as is assigned, or if he is stubborn and disorderly, he shall be punished according to the orders and regulations established by the directors.

Provisions respecting foreigners committed.
G. S. 22, § 22.
P. S. 33, § 22.

SECTION 22. When a person not having a legal settlement in this commonwealth becomes idle or indigent, he may be committed to the workhouse, to be there employed, if able to labor, in the same manner and under the same rules as other persons there committed.

Discontinuance of workhouses.
1743-4, 12, § 14.
1788, 30, § 13.

SECTION 23. A workhouse or almshouse may be discontinued or appropriated to any other use if the place or places interested so determine. R. S. 16, § 24. G. S. 22, § 23. P. S. 33, § 23.

Construction of this chapter.
1743-4, 12, § 16.
1788, 30, § 13.
R. S. 16, § 25.
G. S. 22, § 24.

SECTION 24. The provisions of this chapter shall not affect any powers or privileges heretofore granted to cities or towns, or to the overseers of the poor thereof, by special acts relative to workhouses or almshouses therein. P. S. 33, § 24.

CHAPTER 31.

OF WATCH AND WARD.

SECTIONS 1–7. — Watch and Ward.
SECTIONS 8–19. — Watch Districts.

WATCH AND WARD.

SECTION 1. A city or town may establish and keep a watch and determine the number and qualifications of the watchmen. The mayor and aldermen or selectmen shall appoint an officer of the watch, and shall direct the manner in which watchmen shall be equipped. The expense of the watch shall be defrayed like other town charges. P. S. 34, § 1.

Watch in cities and towns. 1699–1700, 10, §§ 1, 4. 1712–13, 4, § 1. 1796, 82, §§ 3, 4. 1834, 139, § 2. R. S. 17, §§ 7, 8. G. S. 23, § 1.

SECTION 2. The watch shall suppress and prevent all disturbances and disorders. During the night time, they may examine all persons abroad whom they have reason to suspect of an unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more such persons; and may enter any building to suppress a riot or breach of the peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled and who do not disperse when ordered, and persons making, aiding or abetting in a riot or disturbance, may be arrested by the watch, and shall thereupon be safely kept, by imprisonment or otherwise, until the next morning and then taken before a police, district or municipal court or trial justice to be examined and prosecuted.

— duties and powers of. C. L. 154. 1699–1700, 10, § 1. 1712–13, 4, § 2. 1796, 82, § 2. R. S. 17, § 4. 1850, 186. G. S. 23, § 2. P. S. 34, § 2. 138 Mass. 323.

SECTION 3. Officers and members of the watch, when on duty, may carry a club of not more than eighteen inches in length, and such other weapons and shall wear such badge of office as the mayor or selectmen direct. They shall walk the rounds in and about the streets, lanes, wharves and principal inhabited parts of the city or town to prevent danger by fire and to see that good order is kept.

— badges and weapons of. C. L. 154. 1699–1700, 10, § 1. 1712–13, 4, §§ 1, 3. 1796, 82, § 2. R. S. 17, §§ 5, 6. 1855, 118. G. S. 23, § 3. 1864, 110. P. S. 34, § 3.

SECTION 4. The mayor and aldermen of a city or the selectmen of a town wherein no such watch is established may from time to time order a suitable watch to be kept in their city or town, and may warn all persons liable to watch and ward duty to perform the same. They may direct the number of the watch, the places and hours for keeping the same and may order in writing any constable or officer of the watch to warn such watch, either himself or by some person appointed by him, and to see that all persons so warned attend and perform their duty.

Selectmen, etc., may order a watch, when. 1699–1700, 10, § 1. 1796, 82, §§ 2, 5. R. S. 17, §§ 3, 9. G. S. 23, § 4. P. S. 34, § 4.

SECTION 5. Every male person of the age of eighteen years or over, who is able of body or has sufficient estate to hire a substitute, and is not exempt, shall be liable to watch and ward in his city or town, and shall perform the duties, be subject to the liabilities and have the powers of watchmen, as defined in this chapter.

Persons liable to watch, etc. C. L. 154. 1699–1700, 10, § 2. 1796, 82, § 1. R. S. 17, § 1. G. S. 23, § 5. P. S. 34, § 5.

Persons exempt.
C. L. 155.
1699–1700, 10, § 2.

SECTION 6. Justices of the peace, mayors, aldermen, selectmen, sheriffs, settled ministers of the gospel and persons living more than two miles from the place where such watch and ward is kept shall be exempt. 1796, 82, § 1. R. S. 17, § 2. G. S. 23, § 6. P. S. 34, § 6.

Penalty on persons liable, etc., refusing, etc.
C. L. 154.
1699–1700, 10, § 3.
1796, 82, § 5.

SECTION 7. Persons who, being liable to watch and ward, neglect or refuse without reasonable excuse to appear and do duty personally or by sufficient substitute, and constables or officers or members of the watch who refuse to execute and observe proper orders, shall forfeit ten dollars. R. S. 17, §§ 9, 10. G. S. 23, § 7. P. S. 34, § 7.

WATCH DISTRICTS.

Watch districts.
1855, 274, §§ 1, 5.
G. S. 23, § 8.
P. S. 34, § 8.

SECTION 8. Watch districts may be established and organized in villages containing not less than one thousand persons, for the protection of property against fire, thieves and robbers, and for keeping the streets quiet in the night time.

Selectmen, etc., to notify meeting, etc.
1855, 274, § 2.
G. S. 23, § 9.
P. S. 34, § 9.

SECTION 9. The selectmen of the town, upon the application in writing of not less than seven freeholders, inhabitants of such village, the limits of which shall be defined in the application, requiring them to notify a meeting to consider the expediency of establishing such watch district, shall forthwith give notice to the voters in such district qualified to vote in town affairs, in the manner in which notice of town meetings is given, to assemble at some suitable place within the district for said purpose. If the selectmen refuse or neglect to give notice of such meeting, a justice of the peace may notify the same.

Proceedings when village is in two or more towns.
1855, 274, § 3.
G. S. 23, § 10.
P. S. 34, § 10.

SECTION 10. If such village belongs to two or more towns, the voters thereof may organize such district at a meeting called and notified, as provided in the preceding section, by a justice of the peace to whom application has been made by at least five voters of each town who are inhabitants of such district.

Clerk.
1855, 274, § 4.
G. S. 23, § 11.
P. S. 34, § 11.

SECTION 11. If at any such meeting the voters present determine to establish such district, a clerk shall be chosen, who shall be sworn. He may be removed by the district, and in case of a vacancy another may be chosen.

Prudential committee.
1855, 274, § 6.

SECTION 12. A prudential committee of not less than three nor more than five persons shall be chosen by ballot, and shall be sworn. G. S. 23, § 12. P. S. 34, § 12.

Annual meetings for choice of officers.
1855, 274, § 9.
G. S. 23, § 13.
P. S. 34, § 13.

SECTION 13. The prudential committee shall annually issue their warrants to the clerk, requiring him to call a meeting in March for the purpose of choosing officers. Such officers shall perform the duties of their offices until others are chosen.

Meetings, how called, etc.
1855, 274, §§ 2, 3, 7.
G. S. 23, § 14.
P. S. 34, § 14.

SECTION 14. Meetings of the district shall be called by the clerk when requested in writing by the prudential committee or by seven voters of the district. He shall give notice thereof by posting written notices in at least six public places in the district, not less than seven days prior to the meeting, which notices shall contain a

brief statement of the purposes of the meeting. At each of the meetings a moderator shall be chosen, who shall have the powers of the moderator of a town meeting. After the choice of a clerk, he shall preside at subsequent meetings with like powers until a moderator is chosen.

SECTION 15. The district may, at meetings called for the purpose, vote to raise money for the payment of watchmen and for other necessary expenses. The prudential committee shall have the superintendence and control of the watchmen, have charge of and be responsible for the property employed, have the custody and management of the money raised, expend the same for the purposes specified in the votes of the district, be accountable to the district for the money received by them and be liable to a suit for such money or other property of the district in the name of the inhabitants thereof.

Districts may raise money.
1855, 274, §§ 1, 5.
G. S. 23, § 15.
P. S. 34, § 15.

SECTION 16. The clerk shall certify to the assessors of the town all sums of money voted to be raised, which shall be assessed and collected by the officers of the town in the same manner as town taxes are assessed and collected and shall be paid over to the treasurer, who shall hold them subject to the order of the prudential committee. The assessors, treasurer and collector of a town in which such district is organized shall have the powers and perform the duties, with reference to the assessment, collection and abatement of said taxes, which they have and perform in the assessment, collection and abatement of town taxes; but the sums so voted shall be assessed upon the property, real and personal, located within such district.

Clerk to certify amount to assessors.
1855, 274, § 10.
G. S. 23, § 16.
P. S. 34, § 16.
11 Met. 374.

SECTION 17. If a district is composed of parts of two or more towns, the assessors of such towns shall transmit to the clerk of the district the amount of taxable property in the part of their respective towns which is within the limits of the district. The prudential committee shall thereupon apportion the money voted to be raised by the district among the respective towns according to the returns thus transmitted, and it shall be collected and held in the manner provided in the preceding section.

Duty of assessors when district is in two or more towns.
1855, 274, § 11.
G. S. 23, § 17.
P. S. 34, § 17.

SECTION 18. If the freeholders of a territory adjoining a watch district present to the clerk thereof a petition describing such territory and requesting to be annexed to the district, the clerk shall give notice of the petition at the next annual meeting of the district, when, by a vote of the meeting, the inhabitants of such territory may be so annexed.

Adjoining territory, how annexed.
1855, 274, § 12.
G. S. 23, § 18.
P. S. 34, § 18.

SECTION 19. Watch districts heretofore legally organized shall continue, and be subject to the provisions of this chapter relative to watch districts.

Watch districts heretofore organized.
G. S. 23, § 19.
P. S. 34, § 19.

CHAPTER 32.

OF THE STATE FIRE MARSHAL, FIRES, FIRE DEPARTMENTS AND FIRE DISTRICTS.

SECTIONS 1–8. — State Fire Marshal.
SECTIONS 9–15. — Firewards.
SECTIONS 16–25. — Forest Firewards.
SECTIONS 26–37. — Enginemen and Hosemen.
SECTIONS 38–48. — Fire Departments.
SECTIONS 49–70. — Fire Districts.
SECTIONS 71–77. — Firemen's Relief Fund.
SECTIONS 78–80. — Special Provisions.
SECTIONS 81, 82. — Pensions for Firemen in Cities.

STATE FIRE MARSHAL.

Fire marshal and deputy; appointment, term, etc. 1886, 354, § 1. 1888, 199. 1894, 444, § 1. [1 Op. A. G. 174.]

SECTION 1. The governor, with the advice and consent of the council, shall appoint a state fire marshal, who shall be a citizen of the commonwealth, and who shall hold office for the term of five years from the date of his appointment. The governor, with the advice and consent of the council, may, upon the recommendation of the fire marshal, appoint a deputy marshal, who, upon a vacancy in the office of marshal or during the absence or disability of that officer, shall perform his duties.

Cause, etc., of fires to be investigated, etc. 1886, 354, § 2. 1889, 451, § 1. 1894, 444, § 2. 1896, 303.

SECTION 2. The state fire marshal in the city of Boston, and the board of fire engineers in other cities and in towns in which such a board is established, whether the organized fire district includes within its limits the whole territory of the town or not, and the selectmen in towns in which no fire district is organized and no board of fire engineers is established, shall investigate the cause and circumstances of every fire in such city or town by which property has been destroyed or damaged, especially to ascertain whether it was caused by carelessness or design. They shall begin such investigation within two days, excluding Sunday, after such fire and the fire marshal may, in his discretion, supervise and direct the same. The board making investigation of fires in a city or town other than Boston may notify the fire marshal, and shall, within one week after the fire, file with him a written statement of all the facts relative to the cause and origin of the fire, the kind, value and ownership of the property destroyed, and such other information as may be required by him. He shall keep in his office a record of all fires occurring in the commonwealth, with the results of said investigations. Such record shall be open to public inspection, and copies of such portions as the insurance commissioner requires shall be forwarded to him before the fifteenth day of January.

Report.

Power and duties of fire marshal. 1886, 354, § 2. 1894, 444, §§ 3, 4.

SECTION 3. The fire marshal and his deputy shall each have the powers of a state district police officer. The fire marshal shall investigate or procure to be investigated the cause and circumstances of all fires of which he has notice, as provided in the preceding section, by which property has been damaged or destroyed, and es-

pecially to ascertain whether the fire was caused by negligence or design. For these purposes the fire marshal or his deputy may summon and examine on oath any person supposed to know or have means of knowing any material facts touching the subject of investigation. Such witnesses may be kept apart and examined separately and such examination shall be reduced to writing, and false swearing therein shall be deemed perjury and be punishable as such. Any justice of the municipal court of the city of Boston, or of the superior court, upon application of the fire marshal or his deputy, may compel the attendance of such witnesses and the giving of such testimony before the fire marshal or his deputy in the same manner and to the same extent as before said courts respectively. If upon such investigation he believes that the evidence is sufficient to charge any person with crime in causing the fire, he shall make or procure to be made a complaint therefor and shall furnish the proper officers, with the evidence and names of witnesses obtained by him. He shall, when required, report to the insurance commissioner his proceedings and the progress in prosecutions for causing fires and the results thereof.

State fire marshal may enter buildings, etc. 1894, 444, § 4.

SECTION 4. The fire marshal and his deputy and subordinates authorized by him may, for the performance of the duties imposed by this act, at reasonable hours enter upon and examine any building or premises where any fire has occurred, or other buildings and premises adjoining or near the same, with the consent of the occupant thereof.

Entry into buildings. 1894, 444, § 5. [1 Op. A. G. 211.]

SECTION 5. The fire marshal, the fire commissioners of the city of Boston, the board of fire engineers in cities, towns and districts which have such board and the mayor and aldermen in cities and the selectmen in towns not having such board may, and upon the complaint of a person having an interest in any building or premises or property adjacent thereto, shall, at all reasonable hours, enter into buildings and upon premises within their jurisdiction and make an investigation as to the presence of combustible materials or the existence of conditions liable to cause fire. They shall in writing order such materials, if found, to be removed and such conditions, if existing, to be remedied. The owner or occupant of such building or premises may, within twenty-four hours after notice of such order, apply to the fire marshal, by whom the matter shall forthwith be investigated. Unless he revokes the order, it shall remain in force and be at once obeyed by said owner or occupant, who, if he refuses or neglects to comply therewith, shall be punished by a fine of not less than ten nor more than fifty dollars for each day during which such neglect or refusal continues.

Penalty for neglect of certain requirements. 1889, 451, § 6. 1894, 444, § 6.

SECTION 6. Any city or town officer referred to in section two, who neglects or refuses to comply with any requirement of the preceding sections, shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

Salaries, expenses, etc. 1886, 354, § 4. 1894, 444, § 7.

SECTION 7. The fire marshal shall receive an annual salary of forty-five hundred dollars, and the deputy fire marshal an annual salary of twenty-five hundred dollars. Said fire marshal may em-

1895, 452.
1898, 160.

ploy clerks and assistants and incur such expenses as may be necessary in the performance of his official duties not exceeding such amount as the general court may annually appropriate, all of which shall be paid by the commonwealth.

Marshal to engage in no other business, etc.
1886, 354, § 7.
1894, 444, §§ 8, 9.

SECTION 8. The fire marshal shall have an office in the city of Boston, shall not engage in any other business and he or his deputy shall at all times be in the city of Boston, ready for duty. He shall submit annually, before the fifteenth day of February, a detailed report of his official action to the insurance commissioner, who shall embody the material portions thereof in his annual report to the general court.

FIREWARDS.

Firewards.
1711-12, 5, § 1.
1744-5, 30, § 1.
1796, 88, § 1.
R. S. 18, §§ 1, 2.
G. S. 24, §§ 1, 2.
1871, 21.
P. S. 35, § 1.

SECTION 9. The selectmen of a town may annually, in March or April, appoint firewards and forthwith give them notice thereof. Whoever neglects, within seven days after such notice, to file with the town clerk his acceptance or refusal of the office shall, unless excused by the selectmen, forfeit ten dollars.

— to attend fires.
1711-12, 5, § 2.
1744-5, 30, §§ 1, 2.

SECTION 10. If a fire breaks out, the firewards shall immediately repair thereto, and shall carry a suitable staff or badge of office.

1796, 88, § 2. R. S. 18, § 3. G. S. 24, § 3. P. S. 35, § 2. 5 Cush. 269.

Buildings to be pulled down, when.
1711-12, 5, § 1.
1744-5, 30, § 2.
1796, 88, § 2.
R. S. 18, § 4.
G. S. 24, § 4.
P. S. 35, § 3.
5 Cush. 269.
11 Cush. 433.
11 Allen, 507.

SECTION 11. Three or more firewards present at a place which is in immediate danger from fire, or if there are not three of them present, the selectmen or the mayor and the aldermen present, or in their absence, two or more of the civil officers present, or in their absence, two or more of the chief military officers of the place present, may direct any building to be pulled down or demolished if they consider it necessary in order to prevent the spread of the fire.

104 Mass. 94. 109 Mass. 277. 123 Mass. 311.

Same subject.
1873, 201.
P. S. 35, § 4.

SECTION 12. If the city council of a city or the inhabitants of a town accept the provisions of this section or have accepted the corresponding provisions of earlier laws, the engineer of a fire department in command at a fire shall exclusively have the power conferred by the provisions of the preceding section.

Owners to be indemnified.
1796, 88, § 3.
R. S. 18, § 7.
G. S. 24, § 5.
P. S. 35, § 5.
8 Met. 462.
5 Cush. 269.
11 Cush. 433.

SECTION 13. If such pulling down or demolishing of a building is the means of stopping the fire or if the fire stops before it comes to the same, the owner shall be entitled to recover a reasonable compensation from the city or town unless it was the building in which the fire broke out. 11 Allen, 507.

Firewards may command assistance.
1711-12, 5, § 1.
1744-5, 30, § 2.
1796, 88, § 2.
R. S. 18, § 5.
G. S. 24, § 6.
P. S. 35, § 6.

SECTION 14. Such firewards or other officers may, during a fire, require assistance for extinguishing it and for removing furniture, goods or merchandise from a building which is on fire or in danger of fire. They may appoint guards to secure the same, may require assistance for pulling down or demolishing a building when necessary and may suppress all tumults and disorders at such fire.

— may direct the enginemen, etc.

SECTION 15. They may direct the stations and operations of the enginemen with their engines and of all other persons, for the pur-

pose of extinguishing the fire; and whoever refuses or neglects to obey such orders shall for each offence forfeit not more than ten dollars. R. S. 18, § 6. G. S. 24, § 7. P. S. 35, § 7. 1711-12, 5, § 3. 1744-5, 30, § 3. 1796, 88, § 2.

FOREST FIREWARDS.

Forest firewards. 1886, 296, §§ 2, 5.

SECTION 16. Selectmen shall annually, in March or April, appoint one or more forest firewards, or, if towns having less than three hundred voters so vote, the selectmen may act as such. The engineers of fire departments in cities in which a fire department exists shall act as such.

Forester to be chief forest fireward, when. 1897, 254, § 4.

SECTION 17. In a town in which a forester has been appointed under the provisions of section fourteen of chapter fifty-three, he shall be the chief forest fireward. He shall appoint a suitable number of deputy forest firewards, one of whom, designated by him, shall be assistant chief and shall in his absence perform his duties. He may discharge such deputies and appoint others. He shall have sole control of the extinguishment of forest fires in his town, and he or his deputies shall act as forest firewards.

Duties. 1886, 296, § 3.

SECTION 18. Forest firewards shall investigate the causes of fires in woodlands and make report thereon to the mayor or selectmen. They shall post copies of this section, sections sixteen and twenty of this chapter and section seven of chapter two hundred and eight in two or more public places in the city or town.

Back fires in woodlands. 1874, 228. P. S. 35, § 9.

SECTION 19. If a fire occurs in woodland, two or more of the forest firewards of the town, or of a town containing woodland which is endangered by such fire, who are present at a place in immediate danger of being burned over, may set back fires and take all necessary precautions to prevent the spread of the fire.

Foresters may require aid, etc. 1886, 296, § 6. 1897, 254, § 5.

SECTION 20. They may, if in their judgment there is danger from a forest fire, employ assistance or require any male person in their town between the ages of eighteen and fifty years to aid in its extinguishment or prevention, and may require the use of horses, wagons and other property adapted to that purpose, and shall keep an account of the time of all persons assisting them and a schedule of all property so used.

Penalty for refusal of aid. 1897, 254, § 6.

SECTION 21. Whoever wilfully refuses or neglects, without sufficient cause, to assist, or to allow the use of his horses, wagons or other property as required by the preceding section, shall, for each offence, be punished by a fine of not less than five nor more than one hundred dollars to be equally divided between the complainant and the town, and may also be imprisoned for not more than sixty days.

Precautions against forest fires. 1897, 254, § 7.

SECTION 22. Forest firewards shall take precautions to prevent the progress of forest fires or the improper kindling thereof, and upon the discovery of such fire in their town shall immediately summon the necessary assistance, proceed to the fire and extinguish it. They shall cause warnings against the setting of fires and a statement of the law relating thereto, printed in large letters on

cloth furnished by the selectmen at the expense of the town, to be posted in suitable places. Whoever wilfully and maliciously tears down or destroys any such notice shall be punished by a fine of ten dollars.

Compensation of foresters, etc. 1886, 296, § 6. 1897, 254, § 8.

SECTION 23. Payment shall be made to forest firewards, to their deputies, and to persons assisting them, and for property used under their direction at a forest fire, at a rate prescribed by the town or, in default of its action thereon, by the selectmen. No such payment shall be made until an itemized account, approved by the firewards under whose direction the work was done or assistance furnished, shall have been filed with the officer making payment.

Open air fires forbidden, when. 1897, 254, § 10.

SECTION 24. In a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws no fire shall be set in the open air between the first day of April and the first day of October, unless by the written permission of a forest fireward. The fireward shall cause public notice to be given of the provisions of this section, and shall enforce the same. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars, to be divided equally between the complainant and the town, or by imprisonment for not more than one month, or by both such fine and imprisonment.

Expenditures authorized. 1897, 254, §§ 11, 12.

SECTION 25. Money appropriated by a town under the provisions of section seventeen of chapter twenty-five, for the prevention of forest fires, and all fines received under the provisions of sections twenty-one, twenty-two and twenty-four of this chapter and section nine of chapter two hundred and eight shall be expended by the forest fireward, under the supervision of the selectmen, in trimming brush out of wood roads, in preparing and preserving suitable lines for back fires or in other ways adapted to prevent or check the spread of fire; or such town may expend any portion of such money in taking in the name of the town such woodland as the selectmen, upon the recommendation of the forester, consider expedient for the purpose of preventing forest fires. Such taking and the payment of damages therefor or for injury to property, other than by fire or back fire, shall be governed by the laws relating to the taking of land for highways.

ENGINEMEN AND HOSEMEN.

Selectmen, etc., to appoint enginemen. 1784, 64. 1785, 42, §§ 1, 2. 1794, 43. 1805, 82. R. S. 18, §§ 9, 18. G. S. 24, §§ 9, 17.

SECTION 26. The mayor and aldermen of cities or the selectmen of towns which are provided with fire engines may appoint enginemen to hold office at the pleasure of the authority appointing them, and if they are negligent in their duties the mayor and aldermen or selectmen may discharge them. P. S. 35, §§ 12, 21. 111 Mass. 63.

Annual meeting of enginemen; rules and penalties. 1785, 42, § 1. R. S. 18, § 12. G. S. 24, § 12. P. S. 35, § 15.

SECTION 27. Each company of enginemen so appointed shall meet annually in May and choose a foreman and a clerk, and shall establish such regulations, not inconsistent with law, relative to their duty as enginemen, as shall be approved by the mayor and aldermen or selectmen; and they shall annex penalties thereto not exceeding ten dollars, which may be recovered by their clerk.

Meetings of engine companies. 1785, 42, § 2. R. S. 18, § 13. G. S. 24, § 13. P. S. 35, § 16.

SECTION 28. Each company shall meet monthly, or oftener if necessary, to examine their engine and its equipments and see that they are in good repair and ready for use. They shall, under the direction of the firewards, extinguish any fire in their city or town or in its vicinity.

Selectmen, etc., to appoint enginemen to private engines. 1785, 42, § 3. R. S. 18, § 14. G. S. 24, § 14. P. S. 35, § 17. 127 Mass. 277.

SECTION 29. If the proprietors of an engine apply to the mayor and aldermen of a city or selectmen of a town in which the engine is owned, stating that they desire the same to be employed for the benefit of such city or town, the mayor and aldermen or selectmen may appoint enginemen as if the engine belonged to the town; and if the proprietors do not agree upon a place where the engine shall be kept, the mayor and aldermen or selectmen shall determine such place.

If selectmen refuse, commissioners may appoint. 1824, 120, § 1. R. S. 18, § 15. G. S. 24, § 15. P. S. 35, § 18. 127 Mass. 277.

SECTION 30. If the mayor and aldermen or selectmen, upon such application, refuse or delay for fourteen days to appoint enginemen, the proprietors may apply therefor in writing to the county commissioners, giving notice in writing to such mayor and aldermen or selectmen seven days at least before the sitting of the commissioners; and if sufficient cause is shown, the commissioners may appoint such enginemen.

Enginemen to live near engines. 1824, 120, § 2. R. S. 18, § 16. G. S. 24, § 16. P. S. 35, § 19.

SECTION 31. Enginemen appointed under the provisions of the two preceding sections shall, if possible, live at or near the place where the engine is kept, and they shall have all the privileges and exemptions of other enginemen. 127 Mass. 277.

Hosemen may be appointed. 1869, 92. 1870, 28. P. S. 35, § 20.

SECTION 32. Selectmen, engineers of fire departments, and the board of engineers of fire districts, may, in towns having one or more steam fire engines, or in which water for extinguishing fires is supplied from hydrants or reservoirs, appoint a suitable number of men, not exceeding twenty, to each hose carriage.

Compensation of enginemen. 1834, 50, § 2. R. S. 18, § 19. G. S. 24, § 18. P. S. 35, § 22.

SECTION 33. Enginemen or members of the fire department who have done duty as such for one year preceding the first day of May in any year, shall receive from the town a sum equal to the poll tax paid by or for them, and such further compensation as the town determines.

Chief engineer and assessors to certify lists. Treasurers to pay. 1834, 50, § 2. R. S. 18, § 20. G. S. 24, § 19. P. S. 35, § 23.

SECTION 34. The chief engineer or other officer who holds the first office in a fire department, and the foreman or director of each company in a place where no fire department is established by law, shall annually on or before the first day of May make out and certify to the assessors of their respective places a list of all persons in their department or companies who during the preceding year have performed all the duties therein required by law. The assessors shall within ten days thereafter examine such lists and certify to the treasurers of their respective places the amount to be paid to each person named therein. Such treasurers shall, after deducting all taxes due from the persons so named, pay the amount so certified to them, or, if minors, to their parents, masters or guardians; and upon refusal of the treasurer to pay any sums so certified and returned, the person entitled may recover such amount in an action of contract.

Penalty for refusing certificate, etc., or making false one.
1834, 50, § 3.
R. S. 18, § 21.
G. S. 24, § 20.
P. S. 35, § 24.

SECTION 35. If such chief engineer or other officer wilfully refuses to make such certificate, he shall forfeit for each person whose name ought to have been so certified not more than five dollars, to the use of such person, or on complaint to the use of the city or town; and if such engineer or other officer makes a false certificate in such case, he shall forfeit not less than twenty nor more than fifty dollars.

Three preceding sections not to apply unless adopted.
1834, 50, § 5.
R. S. 18, § 22.
G. S. 24, § 21.
P. S. 35, § 25.

SECTION 36. The provisions of the three preceding sections shall be in force only in those cities and towns which adopt the same by vote of their city council or at their annual town meeting, or which have so adopted the corresponding provisions of earlier laws. If such adoption is revoked by the city council or by the town at an annual meeting, said provisions shall cease to be in force therein.

Right of way.
1874, 37.
P. S. 35, § 27.
1898, 162.

SECTION 37. The officers and men of the fire department of any city or town, with the engines and apparatus thereof, shall have the right of way while going to a fire or responding to an alarm through any street, lane or alley in said city or town, subject to such rules and regulations as the city council or selectmen may prescribe. Whoever wilfully and maliciously obstructs or retards the passage of an engine or other apparatus of a fire department, while so going to a fire, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than three months.

FIRE DEPARTMENTS.

Engineers, appointment.
1839, 138, §§ 1, 2.
1855, 128.
G. S. 24, §§ 23, 24.
P. S. 35, §§ 28, 29.
1886, 113.
101 Mass. 117.

SECTION 38. The selectmen of a town may establish a fire department therein and thereafter shall annually in April appoint a suitable number of engineers, not exceeding twelve, for the term of one year from the first day of May following, and until others are appointed in their stead; may, for cause, remove an engineer, after seven days notice to him and a hearing, and shall fill all vacancies.

— organization of.
1839, 138, § 3.
G. S. 24, § 25.
P. S. 35, § 30.

SECTION 39. They shall, immediately after such appointment, issue a notice to each of said engineers to meet at a time and place designated therein; at which meeting the engineers shall choose a chief engineer, a clerk and other necessary officers.

— to have powers of firewards; to appoint enginemen, etc.
1839, 138, § 4.
G. S. 24, § 26.
P. S. 35, § 31.
111 Mass. 60.

SECTION 40. The engineers, in the extinguishment of fires, shall exercise the powers of firewards, and in the nomination and appointment of enginemen shall exercise the powers and perform the duties of selectmen. They may appoint such men to the engines, hose and hook-and-ladder carriages, and constitute companies for securing property endangered by fire, as they consider expedient.

Organization of enginemen; by-laws, etc.
1839, 138, § 5.
G. S. 24, § 27.
P. S. 35, § 32.

SECTION 41. The engine, hose and hook-and-ladder men, and protective companies may organize companies, elect officers, and establish such regulations and by-laws, as the board of engineers approve; and may annex penalties for the violation thereof not exceeding ten dollars for each offence, which may be recovered by the clerk to the use of the company.

SECTION 42. The engineers and all persons appointed by them shall perform the duties, be subject to the liabilities and entitled to the privileges and exemptions of enginemen appointed by selectmen. Privileges of engineers, etc. 1839, 138, § 6. G. S. 24, § 28. P. S. 35, § 33.

SECTION 43. A city or town having a fire department or having a fire district in which only the fire department thereof responds to the first alarm of fire therein shall provide and keep in good condition and ready for immediate use one or more of the following articles: a gun or other suitable device capable of throwing a projectile with a cord attached thereto over the top, or into the windows, of any building therein with all needful appliances for properly working the same; and a life net or jumping net strong enough to break the fall of a person jumping from the top story of such building. Such apparatus shall be taken to every fire occurring in a building over two stories in height. The engineers shall see that a sufficient number of firemen are regularly practised and trained in the proper handling and use of the same. Apparatus of fire departments. 1888, 310, §§ 1, 2. 1898, 165.

SECTION 44. A city or town or the engineers thereof violating the provisions of the preceding section shall forfeit not less than fifty nor more than five hundred dollars. Penalty. 1888, 310, § 3.

SECTION 45. The board of engineers shall have the care and superintendence of the public engines, hose, fire hooks, ladder carriages and ladders, the buildings, fixtures and equipments, and of all pumps, reservoirs for water and apparatus owned by the town and used for extinguishing fires; and shall cause the same to be kept in repair, or renewed; and shall make all necessary alterations therein and additions thereto at an expense not, in any one year, exceeding one hundred dollars, unless the town has authorized a larger appropriation. Engineers to have care of engines, etc. 1839, 138, § 7. G. S. 24, § 29. P. S. 35, § 34. 104 Mass. 94. 162 Mass. 570.

SECTION 46. They may make regulations as to the carrying of fire, firebrands, lighted matches or other ignited materials openly in the streets or thoroughfares of their town or of such parts thereof as they may designate; or to prohibit owners or occupants of buildings within their town, or such part thereof as they may designate, from erecting or maintaining any defective chimney, hearth, oven, stove or stove pipe, fire frame or other fixture, deposit of ashes or whatever else may give just cause of alarm or be the means of kindling or spreading fire. Whoever violates any such rule or regulation shall, for each offence, forfeit not more than twenty dollars. — may regulate carrying fire in streets, etc. 1839, 138, § 8. G. S. 24, § 30. P. S. 35, § 35. 1888, 220.

SECTION 47. They may make regulations, consistent with law, for their own government and for the conduct of citizens at fires and annex penalties for the violation thereof not exceeding twenty dollars for one offence, to be recovered by the chief engineer and appropriated to the improvement of the fire apparatus of the town; but such regulations shall be approved by the town and published as it may direct. — other powers of, as to preventing, etc., fires. 1839, 138, § 8. G. S. 24, § 31. P. S. 35, § 36.

SECTION 48. A city or town which has established a fire department may vote to fix the term of office for the members of such Term of office. 1877, 38. P. S. 35, §§ 38, 39.

department, at one year from a designated day and may, at the same time, determine the then current term of office of members of fire departments; but no term shall be made shorter than six or longer than eighteen months, and the incumbents shall hold office until others are appointed in their stead. In such cases, all provisions of this chapter referring to the month of May shall be construed to refer to the first month of the year thus appointed.

FIRE DISTRICTS.

Fire departments in districts.
1844, 152, § 1.
G. S. 24, § 33.
P. S. 35, § 40.
104 Mass. 94.

SECTION 49. Fire departments may be established in districts which contain not less than one thousand inhabitants, and the officers thereof shall have charge of and be responsible for the apparatus for the extinguishment of fire therein, in the same manner as firewards and enginemen of towns.

— proceedings, to establish.
1844, 152, § 2.
G. S. 24, § 34.
P. S. 35, § 41.

SECTION 50. Before a district is constituted and organized, a petition shall be presented to the town at a meeting, stating the limits of the proposed district, and requesting the town to raise taxes for the establishment and maintenance of a sufficient fire department for the reasonable protection from fire of the inhabitants and property within said limits. If the town refuses or neglects so to do, the inhabitants of the proposed district may organize the same and establish a fire department therein.

Selectmen to call meeting, upon request.
1844, 152, § 3.
G. S. 24, § 35.
P. S. 35, § 42.

SECTION 51. The selectmen, upon the application in writing of not less than seven freeholders, inhabitants of such proposed district, setting forth the limits thereof, and requiring them to notify a meeting of the voters thereof to consider the expediency of organizing such district and establishing a fire department, shall forthwith give such notice in the manner of notifying town meetings, requiring the voters to assemble at some suitable place within the district for said purpose, the substance of which shall be expressed in the notice. If the selectmen refuse or neglect to give notice of such meeting, a justice of the peace may do so.

Voters.
Clerk; his duties.
Clerk pro tempore.
1844, 152, § 4.
G. S. 24, § 36.
1865, 257.
P. S. 35, § 43.

SECTION 52. If at such meeting the voters determine to organize such district, they shall choose a clerk, who shall be sworn. He may be removed by the district, and in case of a vacancy another may be chosen; or in such case, and in case of his disability, the selectmen may appoint a clerk pro tempore, who shall be sworn and shall perform such duties until the vacancy is filled or the disability is removed.

Meeting may establish fire department.
1844, 152, § 5.
G. S. 24, § 37.
P. S. 35, § 44.

SECTION 53. The district at such meeting may vote to establish a fire department, to consist of a chief engineer and as many assistant engineers, enginemen, hosemen and hook-and-ladder men as they may consider necessary, not exceeding seventy-five for each suction engine; thirty-five for each common engine; five for each one hundred and fifty feet of leading hose kept for use within the district; and not exceeding twenty-five hook-and-ladder men. Each of said officers and members shall be furnished with a certificate, under the hands of the chief engineer and clerk, declaring his station in the department.

SECTION 54. The chief engineer and assistant engineers shall be chosen annually by the district, and shall be sworn. Engineers, how chosen. 1844, 152, § 6.
G. S. 24, § 38. 1871, 25. P. S. 35, § 45.

SECTION 55. Meetings of the district shall be called by the clerk, when requested in writing by the chief engineer or by two assistant engineers or by seven voters of the district; and he shall give notice of the same by posting written notices, briefly stating the purpose thereof, in at least six public places in the district not less than seven days prior to the meeting, or by publishing the same in a newspaper, if any, published in the town in which the district is situated. At each meeting a moderator shall be chosen, who shall have the powers of the moderator of a town meeting. After the choice of a clerk, he shall preside at subsequent meetings with like powers until a moderator is chosen. Meetings of fire district, how called and conducted. 1844, 152, § 7. G. S. 24, § 39. P. S. 35, § 46.

SECTION 56. The registrars of voters of towns containing fire districts, and the joint board, if the district is composed of a portion of two or more towns, shall, at least ten days before the annual fire district election, make correct alphabetical lists of all the persons qualified to vote in such election; shall cause such lists to be posted up in two or more public places in said district; and shall correct said lists in the same manner as they are required by law to correct voting lists for town elections. Voting lists for elections in fire districts. 1871, 124, § 1. P. S. 35, § 47.

SECTION 57. In fire districts composed of portions of two or more towns, the prudential committee shall act as registrars of voters in preparing said lists. — in districts composed of parts of different towns. 1871, 124, § 2. P. S. 35, § 48.

SECTION 58. The provisions of sections two hundred and thirty-three, two hundred and thirty-eight and three hundred and forty-nine of chapter eleven shall apply to fire districts. Certain election laws to apply to fire districts. 1871, 124, § 3. P. S. 35, § 49.

SECTION 59. Such districts may, at meetings called for the purpose, raise money by taxation for the purchase of engines and other articles necessary for the extinguishment of fires, for hydrant and water service, for the purchase of land, for the erection and repairs of necessary buildings, for the erection and maintenance of street lamps within their limits, for the payment of a proper charge of an insurance company for acting as surety on the official bond which may be given to such district by any of its officers, and for other incidental expenses of the fire department. The prudential committee of such district may accept an insurance company as sufficient surety upon such bond. Fire districts may raise money for purchase of engines, etc. 1844, 152, § 12. G. S. 24, § 43. 1864, 159. 1874, 151, § 1. P. S. 35, § 51. 1895, 295. 1901, 76. 154 Mass. 450.

SECTION 60. They may, by ordinary vote, incur debts for temporary loans in anticipation of the taxes of the municipal year in which such debts are incurred and of the receipts from other sources due in such year, and expressly made payable, by vote of the district, from such taxes and receipts. Temporary debts. 1896, 280.

SECTION 61. They shall choose a prudential committee, which shall expend, for the purposes prescribed by the district, the money so raised, or borrowed and shall choose a treasurer, who shall give Prudential committee. Treasurer. 1844, 152, § 12. G. S. 24, § 43.

1870, 332, § 3.
1874, 151, §§ 1, 2.
P. S. 35, §§ 51, 52.
1895, 295.

bond for the faithful performance of his official duties in a sum and with sureties approved by the prudential committee. He shall receive all money belonging to the district, and shall pay over and account for the same according to its order or the order of the prudential committee.

Treasurer pro tempore.
1874, 151, § 3.
P. S. 35, § 53.

SECTION 62. If the treasurer is prevented from performing his official duties, or if his office is vacant, the prudential committee may in writing appoint a treasurer pro tempore, who shall give a bond in like manner as the treasurer and shall hold his office until another is chosen.

Assessment, etc., of money raised by fire district, etc.
1844, 152, § 13.
G. S. 24, § 44.
1870, 332.
1874, 151, § 4.
1876, 114.
1878, 185, § 2.
P. S. 35, § 54.
11 Met. 374.
138 Mass. 527.

SECTION 63. The clerk shall certify to the assessors of the town all votes of the district authorizing interest to be added to taxes and all sums of money voted to be raised, which shall be assessed and collected in the same manner as town taxes and shall be paid over to the treasurer of the district. The assessors, treasurer and collector of a town in which such district is organized shall have the powers and perform the duties relative to the assessment and collection of the money voted by the fire district as they have and exercise relative to the assessment, collection and abatement of town taxes, and the sums so voted shall be assessed upon the property, real and personal, within the district.

Board of engineers to make rules and appoint enginemen.
1844, 152, §§ 8, 11.

SECTION 64. The board of engineers may make and publish rules and regulations as provided in case of fire departments by sections forty-six and forty-seven. It may appoint enginemen, hosemen and hook-and-ladder men, and remove them, and fill vacancies in the companies. G. S. 24, § 40. P. S. 35, § 55. 104 Mass. 94.

— powers of, and liability of district for their acts.
1844, 152, § 9.
G. S. 24, § 41.
P. S. 35, § 56.
104 Mass. 94.

SECTION 65. Engineers shall have and exercise within their district the powers and authority of firewards of towns relative to the extinguishment of fires and the demolition of buildings; and districts shall be liable in the same manner for acts done by such engineers, or by their orders, as towns for acts done by firewards.

Privileges, etc. Compensation.
1844, 152, §§ 10, 14.
G. S. 24, § 42.
P. S. 35, § 57.

SECTION 66. Members of the fire department of such district shall have the immunities and privileges of firewards and enginemen of towns, and shall receive such compensation as the district determines.

By-laws to be approved.
1844, 152, § 15.
G. S. 24, § 45.
P. S. 35, § 58.

SECTION 67. No by-law, rule or regulation which has been adopted by the district and imposes a penalty shall be in force until it is approved by the superior court for the county in which such fire district is situated.

Penalties, how recovered, etc.
1844, 152, §§ 8, 15.
G. S. 24, § 46.
P. S. 35, § 59.

SECTION 68. Penalties under the provisions of the four preceding sections may be recovered by action of tort in the name of the chief engineer and appropriated to expenses of the fire department of the district, or on complaint or indictment to the use of the commonwealth. If the chief engineer dies, resigns or removes during the pendency of such action, it shall not abate, but his successor shall be admitted to prosecute it. Residence in the district shall not disqualify a judge, juror or officer in such action.

SECTION 69. A district, at a meeting called for that purpose, may annex adjacent territory and its inhabitants, if a majority of the voters of said territory petition therefor, defining the limits thereof; or may, on the petition of any person, with the assent of the town containing such district, exclude him or his estate therefrom.

District may exclude persons or estates.
1845, 237, § 1.
G. S. 24, § 47.
1875, 122.
P. S. 35, § 60.
108 Mass. 142.

SECTION 70. Fire districts heretofore legally organized shall continue and be subject to the provisions of this chapter relative to fire districts.

Districts heretofore organized.
G. S. 24, § 48.
P. S. 35, § 61.

FIREMEN'S RELIEF FUND.

SECTION 71. The sum of ten thousand dollars shall annually, before the first day of July, be paid by the treasurer and receiver general to the treasurer of the Massachusetts state firemen's association out of the money received from taxes on fire insurance companies doing business in this commonwealth, and it shall be known as the firemen's relief fund of Massachusetts.

Allowance to Massachusetts state firemen's association.
1890, 450, §§ 1, 2.
1891, 274, §§ 1, 2.
1892, 177, §§ 1, 2.

SECTION 72. The treasurer of said association shall give a bond in the sum of ten thousand dollars with sureties approved by the treasurer and receiver general conditioned for the faithful performance of his duties.

Treasurer to give bond.
1890, 450, § 3.
1891, 274, § 3.
1892, 177, § 3.
1894, 375.

SECTION 73. Such fund shall be used for the relief of firemen, whether members of said association or not, who may be injured in the performance of their duty at a fire or in going to or returning from the same, and for the relief of the widows and children of firemen killed in the performance of such duty, in the manner and to the amount determined by a board of five persons, three of whom, not members of said association, shall be appointed by the governor, and two of whom shall be appointed by said association.

Firemen's relief fund.
1890, 450, § 2.
1891, 274, § 2.
1892, 177, § 2.

SECTION 74. Officers and members in active service in all incorporated protective departments co-operating with fire departments, and any person performing the duties of a fireman in a town having no organized fire department, shall be entitled to the benefits thereof.

Firemen, etc., entitled to benefits of fund.
1890, 450, § 4.
1891, 274, § 4.
1892, 177, § 4.

SECTION 75. The unexpended balance of said fund for the preceding year shall be returned to the treasurer and receiver general before the fifteenth day of July in each year, with a detailed report, under oath, of the expenditure of such fund.

Unexpended money, disposal of.
1890, 450, § 5.
1891, 274, § 5.
1892, 177, § 5.

SECTION 76. Five hundred dollars may be allowed from said fund for the incidental expenses of said board, but no part thereof shall be expended for any other expenses or for salaries.

Incidental expenses.
1890, 450, § 6.
1891, 274, § 6.
1892, 177, § 6.

SECTION 77. If a fireman in a regularly organized fire department of a city or town, or any officer or member in active service of any incorporated protective department acting in concert with fire departments, or a person doing fire duty at the request or by the order of the authorities of a town which has no organized fire department, or a person performing the duties of a fireman in such town, is killed, or dies within sixty days from injuries received, while in the performance of his duties, and his death is certified by

Allowance to families of firemen killed or fatally injured, etc.
1893, 401.
1899, 417.

the city or town clerk and the attending physician or medical examiner to the treasurer and receiver general, he shall pay to the executor or administrator of such fireman, out of the money received from taxes on fire insurance companies doing business in this commonwealth, the sum of one thousand dollars for the use equally of his widow and minor children; or if there are minor children but no widow, to their use; or if there is no minor child, to the use of the widow; and if there is no widow or minor child, to the use of the next of kin if dependent on such deceased fireman for support. A child of full age dependent upon such fireman for support shall be regarded as a minor child.

SPECIAL PROVISIONS.

Firemen's clubs not to be established, unless, etc. 1855, 161, § 1.

SECTION 78. No association, society or club, organized as firemen, shall be established in any city or town, except by the written permission of the mayor and aldermen or selectmen.

G. S. 24, § 49. P. S. 35, § 62.

Penalty for joining unauthorized club. 1855, 161, § 2. G. S. 24, § 50. P. S. 35, § 63.

SECTION 79. Whoever joins, belongs to or assembles with such association, society or club, which is established without such permission, shall be punished by a fine of not less than five nor more than one hundred dollars or by imprisonment for not more than three months.

Two preceding sections to be in force only where, etc. 1855, 161, § 3.

SECTION 80. The provisions of the two preceding sections shall be in force in those cities and towns only which adopt the same, or which have adopted the corresponding provisions of earlier statutes.

G. S. 24, § 51. P. S. 35, § 64.

PENSIONS FOR FIREMEN IN CITIES.

Pensions for disability. 1898, 267.

SECTION 81. If a petition, signed by not less than two hundred registered voters of a city and requesting that the question of the acceptance of the provisions of this section be submitted to the voters of such city at the next annual or special city election, is filed with the city clerk not less than thirty days before said election, said question shall be so submitted, and if it is accepted, the city council of such city may thereafter, under such restrictions and subject to such provisions as it may by vote or ordinance prescribe, pension any fireman, who, by reason of permanent disability incurred while in the performance of his duty as fireman, is no longer able to perform active service as a fireman.

— for age, service, etc. 1900, 246.

SECTION 82. If a petition, signed by not less than two hundred registered voters of a city and requesting that the question of the acceptance of the provisions of this section be submitted to the voters of such city at the next annual or special city election is filed with the city clerk not less than thirty days before said election, said question shall be so submitted, and if it is accepted, the city council of such city may thereafter, under such restrictions and subject to such provisions as it may by vote or ordinance prescribe, pension any member of the fire department of such city who has served faithfully in said department for not less than twenty years and who is either sixty-five years of age or over or incapacitated for useful service.

CHAPTER 33.

OF FENCES AND FENCE VIEWERS, POUNDS AND FIELD DRIVERS.

SECTIONS 1–19. — Fences and Fence Viewers.
SECTIONS 20–40. — Pounds and Impounding of Cattle. Field Drivers.

FENCES AND FENCE VIEWERS.

Fences defined. C. L. 145, § 2. 1693–4, 7, § 1. 1785, 52, § 2. R. S. 19, § 1. G. S. 25, § 1. P. S. 36, § 1. 98 Mass. 560.

SECTION 1. Fences four feet high, in good repair, constructed of rails, timber, boards, iron or stone, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which the fence viewers consider equivalent thereto, shall be deemed legal and sufficient fences.

Adjoining occupants to maintain fences. 1698, 12, §§ 2, 4. 1742–3, 33. 1785, 52, §§ 2, 3.

SECTION 2. The occupants of adjoining lands which are enclosed with fences shall, so long as both of them improve the same, maintain partition fences in equal shares between their enclosures, unless they otherwise agree. R. S. 19, §§ 2, 8. G. S. 25, §§ 2, 8. P. S. 36, §§ 2, 8. 2 Met. 180. 4 Met. 589. 4 Gray, 220. 134 Mass. 229. 154 Mass. 588.

Proceedings on neglect, etc., of party. C. L. 17, § 2. 1693–4, 7, § 1. 1742–3, 33. 1785, 52, § 2. R. S. 19, § 3. G. S. 25, § 3. 1863, 190, § 1. 1870, 376. P. S. 36, § 3. 14 Pick. 276. 11 Met. 496. 6 Allen, 437. 134 Mass. 229.

SECTION 3. If a person refuses or neglects to build, repair or rebuild a partition fence which he is required to maintain, any person aggrieved may complain to two or more of the fence viewers, who after notice to each party shall view the same, and if they determine that it is insufficient and that a partition fence is required between the lands of the respective occupants, they shall so state in writing to the delinquent occupant, and direct him to repair or build the same within a reasonable time, not exceeding fifteen days, and if the fence is not built, repaired or rebuilt accordingly, the complainant may build or repair it.

Remedy against adjoining owner for repair of fence. 1785, 52, § 3. R. S. 19, § 4. G. S. 25, § 4. P. S. 36, § 4. 6 Mass. 95. 5 Pick. 503. 14 Pick. 276. 11 Met. 496. 6 Allen, 437. 131 Mass. 431. 134 Mass. 227. 174 Mass. 524.

SECTION 4. If a deficient fence which has been built up or repaired by a complainant is, after due notice to each party, adjudged sufficient by two or more of the fence viewers, and the value thereof with their fees has been ascertained by a certificate under their hands, the complainant may demand, either of the occupant or owner of the land where the fence was deficient, double the amount so ascertained; and upon the neglect or refusal to pay the same for one month after demand, he may recover the same with interest at one per cent a month in an action of contract.

Controversies as to repairs, etc. 1742–3, 33. 1785, 52, § 3. R. S. 19, § 5. G. S. 25, § 5. P. S. 36, § 5. 11 Met. 496. 11 Cush. 450.

SECTION 5. If the rights of the respective occupants in partition fences and their obligation to maintain the same are in controversy, either party may apply to two or more of the fence viewers, who, after due notice to each party and a hearing, may in writing assign to each his share thereof, and may direct the time within which each party shall erect or repair his share; which assignment, being recorded in the office of the city or town clerk, shall be binding upon the parties and upon the succeeding occupants of the lands.

Double damages, when. 1693–4, 7, § 1. 1742–3, 33.

SECTION 6. If a person refuses or neglects to erect and maintain the part of a fence assigned to him by the fence viewers, it may be erected and maintained by any person aggrieved, who shall be entitled

1785, 52, § 3.
R. S. 19, § 6.
G. S. 25, § 6.
P. S. 36, § 6.

to double the value thereof, which shall be ascertained and recovered in the manner aforesaid. 11 Met. 496.

Compensation for repairing more than just share.
R. S. 19, § 7.
G. S. 25, § 7.
1863, 190, § 1.
1870, 376.
P. S. 36, § 7.
14 Pick. 276.
11 Met. 496.

SECTION 7. If a partition fence is required between the lands of adjoining occupants, and either of them has, before complaint made, voluntarily erected the whole fence, or more than his just share thereof, or has otherwise become proprietor thereof, the fence viewers may order the other occupant to pay the value of so much thereof as may be assigned to him to repair or maintain, to be ascertained and recovered as provided in this chapter.

Fences, how and where made, when lands are bounded by water.
1740–1, 19, § 1.
1745–6, 17.
1752–3, 17.
1760–1, 21.
1770–1, 5.
1775–6, 14.
1779–80, 18.
1785, 52, § 4.
R. S. 19, § 9.
G. S. 25, § 9.
P. S. 36, § 9.
11 Met. 496.

SECTION 8. If lands of different persons, which are required to be fenced, are divided by a river, brook, pond or creek, and one of the occupants refuses or neglects to join in making a partition fence or they disagree respecting the same, two or more of the fence viewers shall, upon application, forthwith view such river, brook, pond or creek; and if they determine that it is not sufficient as a fence, that it is impracticable to fence on the true boundary line without unreasonable expense and that a partition fence is required, they shall, after notice to the parties, determine how or on which side the fence shall be set up and maintained, or whether partly on the one side and partly on the other, as to them shall appear just, and shall reduce their determination to writing; and if either party refuses or neglects to make and maintain his part of the fence according to such determination, it may be made and maintained as before provided, and the delinquent party shall be subject to the same costs and charges, and they shall be recovered in like manner.

Improved land in common, without partition fences, may be divided.
1785, 52, § 5.
R. S. 19, § 10.
G. S. 25, § 10.
1863, 190.
1870, 376.
P. S. 36, § 10.
131 Mass. 431.
154 Mass. 587.

SECTION 9. If land belonging to two persons in severalty has been occupied in common without a partition fence between them, and one of the occupants desires to occupy his part in severalty and the other occupant refuses or neglects on demand to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, the party desiring it may have the same divided and assigned by two or more of the fence viewers in the manner provided in this chapter; and the fence viewers may in writing assign a reasonable time, having regard to the season, for making the fence; and if the occupant complained of does not make his part of the fence within the time so assigned, the other party may, after having made up his part of the fence, make up the part of such occupant, and recover therefor double the expense thereof, with the fees of the fence viewers, in the manner aforesaid.

Maintenance of fences. Land, how laid common.
1822, 60.
R. S. 19, § 15.
G. S. 25, § 11.
P. S. 36, § 11.
1 Cush. 15.
134 Mass. 229.

SECTION 10. If a division of fence between the owners of improved land has been made either by fence viewers or under an agreement in writing between the parties which has been recorded in the office of the clerk of the city or town, the several owners of such land and their heirs and assigns shall erect and maintain said fences agreeably to such division; but if a person lays his land common and determines not to improve any part of the same adjoining the fence so divided, and gives six months' notice of his determination to all the occupants of adjoining land, he shall not be required to keep up or maintain said fence during the time that his land lies common and unimproved.

SECTION 11. If one person ceases to improve his land or lays open his enclosure, he shall not take away any part of the partition fence belonging to him and adjoining the next enclosure, if the owner or occupant thereof pays the reasonable value thereof, as determined in writing by two or more of the fence viewers. 154 Mass. 587.

Purchase of right in fence.
C. L. 19, § 7.
1698, 12, § 4.
1742-3, 33.
1785, 52, § 6.
R. S. 19, § 11.
G. S. 25, § 12.
P. S. 36, § 12.

SECTION 12. If unenclosed land is afterward enclosed or used for depasturing, the occupant or owner thereof shall pay for one-half of each partition fence standing upon the line between it and the enclosed land of any other occupant or owner, the value thereof, as determined in writing by two or more of the fence viewers; and if thereupon such occupant or owner neglects or refuses, for thirty days after demand, to pay one-half of the value, the proprietor thereof may maintain an action of contract therefor and for the costs of ascertaining the same; but the occupant or owner of unenclosed land on the island of Nantucket which is used only for depasturing shall not be subject to the provisions of this section.

If unimproved land enclosed, etc., person benefited shall pay, etc.
C. L. 19, § 7.
1698, 12, § 4.
1742-3, 33.
1785, 52, § 6.
R. S. 19, § 12.
1847, 102.
G. S. 25, § 13.
P. S. 36, § 13.
1 Cush. 11.
154 Mass. 587.

SECTION 13. Fence viewers may determine whether a partition fence is required between the lands of respective occupants. If the division line between their lands is in dispute, or unknown, they may designate a line on which the fence shall be built and may employ a surveyor therefor; and such line shall, for the purpose of maintaining a fence, be deemed the division line between such lands, until it is determined that the true line is in another place, and, until so determined, all provisions of law relative to the erection, maintenance and protection of fences shall be applicable to the fence erected, or to be erected, on such line.

Fence viewers may establish division lines, when.
1863, 190, § 1.
1870, 376.
P. S. 36, § 14.
154 Mass. 587.

SECTION 14. If it is determined that the true division line is in another place, each occupant shall remove his part of the fence to, and rebuild the same on, such line; and in case of neglect or refusal by either to remove and rebuild his share thereof, the other may apply to two or more of the fence viewers, who shall view the premises and assign a time within which the fence shall be removed and rebuilt, and shall give the delinquent party notice thereof; and if such party does not remove and rebuild the fence within the time so assigned, the other party may remove and rebuild the same and recover double the expense thereof, with the fees of the fence viewers, to be ascertained and recovered in the manner provided in section four.

Removal to and rebuilding of fence on true line.
1863, 190, § 2.
P. S. 36, § 15.

SECTION 15. If the line upon which a partition fence is to be made or divided is a boundary line of a city or town or is partly in one and partly in another city or town, a fence viewer shall be taken from each place. G. S. 25, § 14. P. S. 36, § 16.

Fence viewers, when fences are on town lines.
1785, 52, § 6.
R. S. 19, § 13.

SECTION 16. A water fence, or fence running into the water, shall, unless otherwise agreed by the parties, be built by them in equal shares; and they shall have like remedies as in case of partition fences. P. S. 36, § 17. 11 Met. 496.

Water fences, how made.
1740-1, 19, § 3.
1785, 52, § 7.
R. S. 19, § 14.
G. S. 25, § 15.

SECTION 17. A fence viewer who, when requested, unreasonably neglects to perform any duty required of him in this chapter shall

Penalty for fence viewer's neglect of duty.
1698, 12, § 1.

1753-4, 29, § 1. 1756-7, 24. 1785, 52, § 8. R. S. 19, § 17. G. S. 25, § 16.

forfeit five dollars, to be recovered by action of tort to the use of the city or town, or on complaint to the use of the commonwealth, and shall also be liable for all damages to the party injured. P. S. 36, § 18.

Fees of fence viewers. 1698, 12, § 1. 1753-4, 29, § 1. 1756-7, 24. 1785, 52, § 8. R. S. 19, § 18. G. S. 25, § 17. 1862, 93. P. S. 36, § 19. 11 Met. 496.

SECTION 18. Each fence viewer shall be paid at the rate of two dollars a day for the time during which he is employed. Such payment shall be made by all or by such of the parties in dispute, and in such proportions, as shall be determined by a certificate in writing under the hands of the fence viewers acting in each case. If any person or persons, who are so required to pay the whole or any portion of said fees, neglect to pay the fence viewers within thirty days after the certificate has been delivered, the fence viewers may recover, in an action of tort, double the amount of the fees due from such delinquent person.

Fence a nuisance, when. 1887, 348. 148 Mass. 368, 407. 150 Mass. 482. 162 Mass. 544.

SECTION 19. A fence or other structure in the nature of a fence which unnecessarily exceeds six feet in height and is maliciously erected or maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance. Any such owner or occupant who is injured either in the comfort or enjoyment of his estate thereby may have an action of tort for damages according to the provisions of chapter one hundred and eighty-six.

POUNDS AND IMPOUNDING OF CATTLE. FIELD DRIVERS.

Pounds to be maintained. C. L. 124. 1698, 6, § 1. 1728-9, 5. 1788, 65, § 1. 1834, 184, §§ 1, 4.

SECTION 20. Each city and town shall maintain sufficient pounds, and for neglect thereof for three months shall forfeit fifty dollars; and shall annually appoint a keeper of each pound therein.

R. S. 19, §§ 19-21. 1848, 272. G. S. 25, §§ 18, 20. P. S. 36, §§ 20, 22. 6 Allen, 408.

—penalty for injuring. 1834, 184, § 8. R. S. 19, § 24. G. S. 25, § 19.

SECTION 21. Whoever wilfully injures a city or town pound shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than ninety days. P. S. 36, § 21.

Beasts at large without keeper to be taken up. 1698, 6, § 2. 1788, 44, § 2; 65, § 2. 1793, 19. 1834, 184, § 4. R. S. 19, § 22. G. S. 25, § 21. P. S. 36, § 23. 21 Pick. 187. 23 Pick. 251. 12 Met. 198. 12 Cush. 98.

SECTION 22. Every field driver shall take up horses, asses, mules, neat cattle, sheep, goats or swine, going at large in the highways or townways, or on common and unimproved land, within his city or town, and not under the care of a keeper; and for any such cattle or beasts so going at large on the Lord's day, the field driver or any other inhabitant of the city or town may, in an action of tort, recover for each beast the same fees which the field driver is entitled to receive for distraining like beasts. 2 Gray, 180.

4 Gray, 314, 345. 16 Gray, 265. 1 Allen, 270. 3 Allen, 39. 6 Allen, 408. 174 Mass. 570.

— to be impounded. 1788, 65, § 2. 1834, 184, § 4. R. S. 113, § 1.

SECTION 23. Beasts so taken up and distrained by a field driver shall be forthwith impounded in the city or town pound, and the keeper shall furnish them while there with suitable food and water.

G. S. 25, § 22. P. S. 36, § 24. 5 Cush. 263. 12 Cush. 98, 103. 4 Gray, 312. 131 Mass. 426.

Fees of field driver and pound keeper. 1788, 65, § 2. 1834, 184, § 4. R. S. 113, § 2. G. S. 25, § 23. 1863, 178. P. S. 36, § 25. 131 Mass. 426.

SECTION 24. The field driver shall be entitled to ten cents each for sheep and goats, and fifty cents each for other beasts, so taken up by him, and the pound keeper shall be entitled to four cents each for the animals so impounded; but if more than ten sheep are taken up at the same time, the fees for all above that number shall be only five cents each.

SECTION 25. The pound keeper shall not deliver to the owner any beasts so impounded until the owner pays him his fees, the expense of keeping the beasts, and the fees of the field driver which, when received, he shall pay to the field driver.

Fees of field driver and pound keeper to be paid by owner of beasts. 1834, 184, § 4.

R. S. 113, § 3. G. S. 25, § 24. P. S. 36, § 26. 21 Pick. 181. 5 Cush. 263.

SECTION 26. If a person is injured in his land by horses, asses, mules, neat cattle, sheep, goats or swine, he may recover his damages by an action against the owner of the beasts, or by distraining the beasts doing the damage and proceeding therewith as hereinafter directed; but if the beasts were lawfully on the adjoining lands and escape therefrom through the neglect of the person injured to maintain his part of the division fence the owner shall not be liable nor the beasts distrained.

Distraint of beasts doing damage. 1753–4, 29, § 3. 1756–7, 24. 1788, 65, § 3. 1834, 184, § 5. R. S. 113, § 4. G. S. 25, § 25. P. S. 36, § 27. 5 Greenl. 356. 6 Mass. 90. 16 Mass. 37. 4 Met. 589.

13 Met. 407. 12 Cush. 98. 114 Mass. 466. 131 Mass. 426.
21 Pick. 55. 10 Allen, 544. 126 Mass. 364. 134 Mass. 510.

SECTION 27. The beasts so distrained shall be impounded in the city or town pound, or in some suitable place, under the immediate care and inspection of the distrainor; and he shall furnish them with suitable food and water while they remain impounded.

—impounding. C. L. 18, § 3; 20; 145, § 2. 1698, 6, § 3. 1788, 65, § 3. 1834, 184, § 5. R. S. 113, § 5.

G. S. 25, § 26. P. S. 36, § 28. 13 Met. 407. 126 Mass. 364.

SECTION 28. If beasts are taken up and distrained by a field driver in a town which adopts the provisions of this section or has adopted the corresponding provisions of earlier laws, he may impound them on his own premises; and for the purposes of this chapter he shall be considered a pound keeper, and such place on his premises shall be considered a town pound relative to beasts therein impounded.

Impounding of beasts on premises of field driver. 1869, 366. P. S. 36, § 29.

SECTION 29. If the beasts are impounded in the city or town pound, the distrainor shall leave with the pound keeper a memorandum in writing under his hand, stating the cause of impounding and the amount which he demands from the owner for the damage done by them, and also for the daily charges of feeding them; and if they are impounded in any other place, he shall on demand give a like memorandum to the owner. 10 Allen, 544. 126 Mass. 364.

Person distraining to state demand. 1788, 65, § 4. 1834, 184, § 5. R. S. 113, § 6. G. S. 25, § 27. P. S. 36, § 30. 21 Pick. 187. 23 Pick. 251. 12 Met. 198. 13 Met. 407.

SECTION 30. The pound keeper shall not deliver the beasts to the owner until his fees, the amount so demanded by the distrainor for the damages and charges aforesaid, the expense, if any, of advertising and all other legal costs and expenses have been paid to him.

Beasts not delivered until costs paid. 1834, 184, § 5. R. S. 113, § 7. G. S. 25, § 28. P. S. 36, § 31. 5 Cush. 263.

SECTION 31. Whoever impounds beasts shall, within twenty-four hours thereafter, give notice in writing, containing a description of the beasts and a statement of the time, place and cause of impounding, to the owner or person having the care of them, if known and living within six miles of the place of impounding, by delivering it to him or leaving it at his place of abode.

Notice to be given owner or keeper. C. L. 18, § 3; 125; 146, § 3. 1698, 6, § 3. 1788, 65, § 4. 1834, 184, § 6. R. S. 113, § 8. G. S. 25, § 29. P. S. 36, § 32.

21 Pick. 187. 12 Met. 118, 198. 2 Gray, 178. 10 Allen, 544.
23 Pick. 251. 7 Cush. 355. 3 Allen, 39. 131 Mass. 426.

SECTION 32. If there is no person entitled to such notice, the person impounding the beasts shall, within forty-eight hours there-

Notice to be posted and published.

1834, 184, § 6. R. S. 113, § 9. G. S. 25, § 30. P. S. 36, § 33. 12 Met. 198. 3 Allen, 39.

after, post a like notice in a public place in the city or town and in a public place in each of any two adjoining cities or towns, if within four miles from the place where the beasts were taken; and if their value exceeds thirty dollars and no person claims them within seven days after the day of impounding, a like notice shall be published three weeks successively in a newspaper, if any, published within twenty miles of the pound, the first publication to be within fifteen days after the day of impounding.

Amount due from owner, how determined. C. L. 18, § 3. 1788, 65, § 4. 1834, 184, § 6. R. S. 113, § 10.

SECTION 33. If the owner or keeper of the beasts is dissatisfied with the claim of the person impounding them, he may have the amount for which he is liable determined by two disinterested persons, who shall be appointed and sworn by a justice of the peace or by the city or town clerk. G. S. 25, § 31. P. S. 36, § 34.

Same subject. 1703-4, 10. 1788, 65, § 4. 1834, 184, § 6. R. S. 113, § 11. G. S. 25, § 32. P. S. 36, § 35. 21 Pick. 55.

SECTION 34. If the amount for which the beasts have been impounded and detained is not paid within fourteen days after notice of the impounding has been given as before directed, or after the last publication of such notice, the person who impounded them shall apply to a justice of the peace, or to the city or town clerk, who shall issue a warrant to two disinterested persons, who shall be appointed and sworn by the justice or clerk, and they shall determine the amount due from the owner or keeper of the beasts for the damages, costs and expenses for which they have been impounded and detained, including a reasonable compensation for their own services.

If not paid, beasts to be sold. C. L. 146, § 3. 1703-4, 10. 1788, 65, § 4. 1834, 184, § 6. R. S. 113, § 12.

SECTION 35. If the amount so determined is not forthwith paid, the person who impounded the beasts shall cause them to be sold by auction in the city or town where they are impounded, first advertising the sale by posting up a notice thereof for twenty-four hours at some public place in such city or town.
G. S. 25, § 33. P. S. 36, § 36. 21 Pick. 55.

Disposition of proceeds. C. L. 146, § 3. 1703-4, 10. 1757-8, 10. 1760-1, 21. 1770-1, 5.

SECTION 36. The proceeds of such sale, after paying all said damages, costs, expenses and charges for advertising and selling the beasts, shall be deposited in the city or town treasury for the use of the owner, upon proof of his right thereto within two years from the sale. 1775-6, 14. 1779-80, 18. 1788, 65, § 37. 1834, 184, § 6. R. S. 113, § 13. G. S. 25, § 34. P. S. 36, § 37.

Escaped or rescued beasts may be retaken. 1834, 184, § 7. R. S. 113, § 14. G. S. 25, § 35.

SECTION 37. If beasts which have been lawfully distrained or impounded escape or are rescued, the pound keeper, field driver or other person who distrained them may, at any time within seven days thereafter, retake, hold and dispose of them as if there had been no escape or rescue. P. S. 36, § 38.

Penalty for rescuing beasts distrained. C. L. 125, § 2. 1698, 6, § 4. 1788, 65, § 6. 1834, 184, § 8.

SECTION 38. Whoever rescues beasts lawfully distrained or impounded shall be liable in an action of tort to any person injured for all damages sustained thereby and the fees and charges incurred before the rescue; and he shall also forfeit not less than five nor more than twenty dollars. R. S. 113, § 15. G. S. 25, § 36. P. S. 36, § 39. 1 Mass. 168. 4 Mass. 471. 17 Mass. 342. 5 Pick. 514. 5 Cush. 267.

SECTION 39. The defendant in an action for rescuing beasts distrained or impounded shall not be allowed to allege or give in evidence the insufficiency of the fences or any other fact or circumstance to show that the distress or impounding was illegal; but if there is such ground of objections to the proceedings he may avail himself thereof in an action of replevin.

Legality of distress, how tried.
1788, 65, § 6.
R. S. 113, § 16.
G. S. 25, § 37.
P. S. 36, § 40.
4 Mass. 471.
5 Pick. 514.

SECTION 40. If the owner of a ram or he-goat suffers it to go at large out of his enclosure between the first day of July and the twenty-fifth day of December, he shall, if prosecuted within thirty days next after such ram or he-goat is found going at large, forfeit five dollars for each offence.

Rams and he-goats, when not to go at large.
1824, 98, § 1.
R. S. 19, § 23.
G. S. 25, § 38.
P. S. 36, § 41.

CHAPTER 34.

OF THE MANUFACTURE AND DISTRIBUTION OF GAS AND ELECTRICITY BY CITIES AND TOWNS.

SECTION 1. A city or town may, in accordance with the provisions of this chapter, construct, purchase or lease, and maintain within its limits, one or more plants for the manufacture or distribution of gas or electricity for furnishing light for municipal use, or light, heat or power, except for the operation of electric cars, for the use of its inhabitants. Such plants may include suitable land, structures and machinery and other apparatus and appliances for manufacturing, using and distributing gas or electricity for said purposes.

Cities and towns may manufacture, etc., gas and electricity.
1891, 370, § 1.
1894, 533.
150 Mass. 592.
153 Mass. 129.
155 Mass. 601, 605.
163 Mass. 346.

SECTION 2. A city shall not acquire such a plant until it has been so authorized by a vote of two-thirds of each branch of its city council passed in each of two consecutive municipal years and thereafter ratified by a majority of the voters at an annual or special city election. If such a vote is not ratified, no similar vote shall be submitted for ratification within one year thereafter. Such vote of the city council shall be subject to the approval or veto of the mayor.

Vote under this chapter in cities.
1891, 370, § 2.
1893, 454, § 7.
1894, 432, 448.

SECTION 3. A town shall not acquire such a plant until it has been so authorized by a vote of two-thirds of the voters, taken by ballot with the use of the voting list, at each of two town meetings called for the purpose and held at intervals of not less than two nor more than thirteen months. If such vote fails of passage at the second meeting no similar vote shall be passed within two years thereafter.

—in towns.
1891, 370, § 3.
163 Mass. 346.

SECTION 4. After a city or town has voted under the provisions of the two preceding sections, the city or town clerk shall forthwith transmit to the board of gas and electric light commissioners a certified copy of so much of the records of the city council or of the town as relates to the result of the vote.

Certification of vote of acceptance.
1892, 259, § 1.

SECTION 5. If a city or town which has authorized the acquisition of such a plant subsequently votes to establish, purchase,

Certification of subsequent votes

and ordinances. 1892, 259, § 2.

reconstruct, extend or enlarge a plant, or to issue bonds on account of the same, or to regulate the management or conduct thereof, or to adopt an ordinance or by-law relative to such plant, the city or town clerk shall, within ten days after such vote, transmit to the board of gas and electric light commissioners a certified copy thereof.

Penalty. 1892, 259, § 4.

SECTION 6. A city or town clerk who fails or neglects to comply with the provisions of the two preceding sections shall, for each offence, forfeit not more than twenty-five dollars.

Bonds, issue of. 1891, 370, § 4.

SECTION 7. A city or town which establishes, purchases, reconstructs, extends or enlarges such a plant may, by a vote taken as prescribed in section eight of chapter twenty-seven issue bonds in payment of the same. The whole amount of bonds so issued shall not, at the par value of such bonds, exceed five per cent of the valuation of the town or two and one-half per cent of the valuation of the city, according to the last preceding state valuation. Such bonds shall be payable within thirty years, shall bear interest at a rate not exceeding five per cent and shall not be disposed of for less than par and accrued interest. The indebtedness created by the issue of such bonds shall not be subject to the provisions of chapter twenty-seven, except section twelve thereof.

Annual payments. 1893, 454, § 9. 1894, 182.

SECTION 8. Instead of issuing the bonds authorized by the preceding section, a city or town may provide for the payment of the debt incurred by it under the provisions of this chapter by such annual payments as will extinguish such debt within thirty years, and may issue bonds, notes or scrip therefor. The amount required for such annual payments shall, without further vote, be annually assessed by the assessors until said debt shall be extinguished, in the same manner as taxes are assessed under the provisions of section thirty-seven of chapter twelve.

Enlargement of plant. 1891, 370, § 5.

SECTION 9. A city or town which owns such a plant shall not, except by a vote taken in the manner prescribed in section eight of chapter twenty-seven, reconstruct, enlarge or extend the same beyond the necessary and ordinary maintenance, repair and replacement thereof, or the provision of increased appliances necessary to distribute gas or electricity to new consumers.

Purchase of established plant. 1891, 370, § 12. 1893, 454, § 5. 1894, 538.

SECTION 10. If, when a city or town votes to establish a municipal lighting plant, any person or corporation engaged at the time of the first vote required by sections two and three of this chapter in the business of generating or distributing gas or electricity for sale for lighting purposes in such city or town shall elect to sell in the manner hereinafter provided, the city or town shall purchase of him or it such portion of his or its plant and property within the limits of such city or town as is suitable for and is used in connection with such business. Such purchase shall be required to include both a gas and electric lighting plant only if a single corporation owns or operates both such plants. If the main gas works or the central electric lighting station lie within the city or town limits, such city or town shall purchase the whole of such plant and the

property used in connection therewith, lying within such limits, at its fair market value for the purposes of its use; but no portion of such plant shall be estimated at less than its fair market value for any other purpose, including, as an element of value, locations or similar rights and the damages, if any, caused by the severance of any portion of such plant lying outside such city or town limits, if they are not purchased by the city or town, and excluding any mortgage or other encumbrance or lien to which such plant or any part thereof may be subject at the time of such purchase. The city or town may require the plant and property to be transferred to it free of any mortgage or lien unless the commissioners appointed under the provisions of the following section otherwise determine. Such value shall be estimated without enhancement on account of future earning capacity or good will or of exclusive privileges derived from rights in the public streets. If the main gas works or central electric lighting station of such plant lie without the city or town limits, the city or town shall purchase only that portion of the plant or property within its limits, estimating its value as above provided, but without allowance of damages on account of severance of plant. No city or town shall be required to buy any apparatus or appliances which are covered by letters patent of the United States or embody a patentable invention unless a complete right to use the same and all other apparatus or appliances necessary for its use, to such extent as such city or town shall reasonably require, shall be assigned or granted to it at a cost as low as it would be to the person or corporation whose plant is purchased. No city or town shall be required to buy any property unnecessarily added to a plant after the passage of its first vote under the provisions of sections two or three, nor any property except such as would be suitable for the ordinary business of the vendor. If any property or plant which the city or town would be entitled or required to buy would not be available to it if purchased, by reason of liens, interests of third parties, private contracts or other causes whereby the city or town would be at a greater disadvantage in its use than the vendor, it may be released from buying the same, or it may be allowed an equitable discount from the purchase price as the commissioners provided for in the following section determine.

Enforcement of purchase.
1891, 370, § 13.
1893, 454, § 4.
161 Mass. 432.
163 Mass. 346.

SECTION 11. Any person, or corporation who desires to enforce the obligation of a city or town under the provisions of the preceding section to purchase any property shall, within thirty days after the passage of the final vote of such city or town to establish a plant, file with its clerk a detailed schedule of the property and a statement of the proposed terms of sale. If the parties fail to agree as to what property shall be sold, or as to the terms of sale and delivery, either party may, within sixty days after the filing of the schedule, apply by petition to the supreme judicial court which, after a hearing, shall appoint one or more commissioners who shall determine what property, real or personal, including rights and easements, shall be sold by the one and purchased by the other, and what the price, time and other conditions of the sale and delivery thereof shall be. Such commissioners shall file their report in the supreme judicial court for revision or confirmation. No commissioner shall be appointed until the expiration of sixty days after the

filing of the schedule named in section fifteen unless the vote authorized by section sixteen has been passed, or unless it appears that the person or corporation filing the schedule owns no plant in an adjoining city or town which may be the subject of adjudication.

Appeal from award.
1891, 370, § 14.

SECTION 12. A party aggrieved by the award of the commissioners may, within fourteen days after it has been filed or within such further time as the court may allow, file objections to matters of fact or law therein, and thereupon the court, after notice to all parties interested, shall have jurisdiction in equity to hear and determine the same.

Purchase of property of plant in adjoining city or town.
1893, 454, § 1.

SECTION 13. If a city or town purchases a gas or electric lighting plant having mains, poles, wires or other distributing apparatus in an adjoining city or town in which there is no private gas or electric lighting company, it may also purchase such mains, poles, wires or other distributing apparatus therein, subject to the provisions of the three preceding sections.

Supply of light, etc., to adjoining place.
1893, 454, § 2.

SECTION 14. A city or town which has acquired, as hereinbefore provided, mains, poles, wires or other distributing apparatus in an adjoining city or town may thereafter manufacture, sell and distribute gas or electricity to said adjoining city or town or to its inhabitants, and shall thereafter have therein the same rights and franchises and be subject to the same limitations and obligations as the person or corporation from whom such outlying plant was purchased would have had or to which he or it would have been subject had such purchase not been made. If the adjoining city or town shall itself establish a gas or electric lighting plant, it shall, under the provisions of sections ten, eleven and twelve, purchase the plant and property within its limits owned by the other city or town, which, within thirty days after demand filed with its clerk, shall file with the clerk of the purchasing city or town the schedule required by section eleven, and shall sell the same; and thereupon its right to maintain a gas or electric lighting plant or to sell gas or electricity within the limits of the purchasing city or town shall cease as to the plant sold.

Enforcement of obligation of purchase.
1893, 454, § 3.

SECTION 15. After the first of the two votes required by sections two and three shall have been passed in a city or town, any person or corporation who owns a gas or electric lighting plant therein and desires to preserve the right to enforce the obligation of such city or town to purchase his or its plant shall, within thirty days after a written request therefor by the mayor, authorized by the city council, or by the selectmen, file with the city or town clerk a detailed statement of all of the property and plant which he or it proposes to sell to such city or town, if it votes to establish a plant, and the proposed terms of sale. If any part of the plant or property which the city or town would have the right to buy lies in an adjoining city or town, a separate schedule and the proposed terms of sale thereof shall be filed; and all the property named in such schedule, or used in connection therewith shall at all reasonable times thereafter be open to the examination of the mayor, of any committee of the city council selected by him and

of any experts necessary to determine the value thereof, or to the examination of the selectmen and of any such experts selected by them. The reasonable expenses of such schedule or of such examination or inspection shall be paid by the city or town requesting the same.

Vote of acceptance; effect. 1893, 454, § 4.

SECTION 16. Said city or town may, at any time within sixty days after the filing of such schedule, by vote of its city council or of the voters of the town, determine that such purchase shall include the property in an adjoining city or town, and thereupon it shall be under the same obligations and have the same rights as to the purchase of such outlying property as if it were within its limits; but such vote shall not prejudice the right of the city or town voting to resist its obligation to purchase the same for any reason except that such property is not within its limits. If such vote is not taken within said sixty days, the right of such city or town to buy the outlying property shall cease.

Termination of vendor's rights. 1891, 370, § 15.

SECTION 17. If a city or town acquires a gas or electric lighting plant, the right of any person or corporation from whom such plant was acquired to manufacture and distribute gas or electricity within its limits shall cease.

Purchase of gas, etc., by city or town. 1893, 454, § 8.

SECTION 18. A city or town which acquires a plant for the distribution, but not for the manufacture, of gas or electricity for lighting purposes, may purchase gas or electricity from an adjoining city or town or from any corporation manufacturing it.

Municipal light board in towns. 1893, 454, § 10.

SECTION 19. A town which has established or votes to establish a gas or electric lighting plant may elect a municipal light board consisting of three citizens of the town, one of whom shall be chosen for one year, one for two years, and one for three years, and at each annual meeting thereafter one for a term of three years, who shall have authority to construct, purchase or lease a gas or electric lighting plant in accordance with the vote of the town and to maintain and operate the same.

Manager of municipal lighting. 1891, 370, § 8. 1893, 454, § 10.

SECTION 20. The mayor of a city or the selectmen, or municipal light board if any, of a town which acquires a gas or electric lighting plant shall appoint a manager of municipal lighting who shall, subject to any ordinance or by-law, be entrusted with the operation and management of such plant, the manufacture and distribution of gas or electricity, the purchase of supplies, the employment of agents and servants, with the method, time, price, quantity and quality of the supply, the collection and payment of bills, the keeping of accounts and custody of money received for gas or electricity or otherwise. His compensation shall be annually fixed, in cities, by the city council and, in towns, by the selectmen or municipal light board, and, before entering upon the performance of his official duties, he shall give bond to the city or town for the faithful performance thereof in a sum and form and with sureties to the satisfaction of the mayor, selectmen or municipal light board, and shall, at the end of each municipal year, render to them such detailed statement of his doings and of the business and financial matters

in his charge as the board of gas and electric light commissioners may prescribe. He shall also at any time, when required by the mayor, selectmen or municipal light board, make a statement of his doings, business, receipts, disbursements, balances, and of the indebtedness of the city or town in his department.

Running expenses to be included in appropriations. 1891, 370, §§ 4, 8.

SECTION 21. The gross expenses of running such plant and supplying gas or electric light, including the interest on bonds and the requirements of the sinking fund, shall be included by such city or town in its appropriations, and, in order to pay the operating expenses thereof, it may borrow money in accordance with section six of chapter twenty-seven. All receipts from the sale of gas or electricity by the manager of municipal lighting or otherwise shall be paid over to the city or town treasurer.

Regulation of price of gas, etc. 1891, 370, § 10.

SECTION 22. There shall be a fixed price for gas and electricity, which shall not be changed oftener than once in three months. Any change shall take effect on the first day of a month, and shall first be advertised in a newspaper, if any, published in such city or town. The price shall not, except with the written consent of the board of gas and electric light commissioners, be fixed at less than cost, in which shall be included all operating expenses, interest on the net investment in the plant, less assessments collected under section twenty-five at the rate paid upon the bonds above provided for, the requirements of the sinking fund established to meet such bonds, and also depreciation of the plant, to be reckoned at not less than five per cent per annum of its cost, and losses; but any losses exceeding three per cent of the investment in the plant may be charged in different years at not more than three per cent per annum. Such price shall not be greater than shall allow, above such cost, a profit of eight per cent per annum to the city or town upon its net investment. The gas and electricity used by the city or town shall be charged to it at cost. A sufficient deposit to secure the payment for gas or electricity for three months may be required in advance from any consumer, and the supply may be shut off from any premises until all arrears for gas or electricity furnished thereon to such consumer shall have been paid. After three months' default in the payment of such arrears, all appliances for distribution belonging to such city or town on the premises may be removed and shall not be restored except on payment of all such arrears and the expenses of removal and restoration.

Certification of notice of change, etc., of price. 1892, 259, §§ 3, 4.

SECTION 23. When a city or town fixes or changes such price, the manager of municipal lighting shall send a certified copy of the notice thereof to the board of gas and electric light commissioners, and for a failure or neglect so to do shall, for each offence, forfeit not more than twenty-five dollars.

Appeal. 1891, 370, § 7. 1894, 533.

SECTION 24. A city or town shall not be compelled to furnish gas or electricity to any person or corporation except upon the order of the board of gas and electric light commissioners, to whom any person or corporation aggrieved by the refusal of a city or town to furnish gas or electricity may appeal, stating the facts in such detail as the board directs.

SECTION 25. A city or town which acquires such a plant may provide by ordinance or by-laws for the equitable assessment upon the owner or occupant of any premises of the cost, or any part thereof, of laying and maintaining pipes, conduits, conductors or other appliances thereon. Payment of such assessments shall not be compulsory, but it shall be a condition precedent to the supply of gas or electricity to the occupants of such premises, and may be required before providing appliances therefor. Assessment upon consumers of cost of installation. 1891, 370, § 6.

SECTION 26. A city or town which operates such a plant may pass ordinances or by-laws, imposing penalties not exceeding fifty dollars, to protect the plant, control its use and prevent accidents from gas or electricity supplied by it, and to govern consumers in their use thereof. Ordinances or by-laws. 1891, 370, § 11.

SECTION 27. A city or town which manufactures or sells gas or electricity for lighting shall keep records of its work and doings at its manufacturing station, and in respect to its distributing plant, as required by the board of gas and electric light commissioners. The books, accounts and returns shall be made and kept, in a form prescribed by said board, and the accounts shall be closed on the thirtieth day of June annually and a balance sheet of that date shall be taken therefrom and included in the return of said board. The mayor or selectmen, or municipal light board if any, shall annually, on or before the second Wednesday of September, make a return to said board, for the year ending on the thirtieth day of June, signed and sworn to by the mayor or a majority of the selectmen or municipal light board if any, and by the manager, stating the financial condition of said business, the amount of indebtedness both authorized and existing on account thereof, a statement of income and expenses in such detail as the board may require, and a list of its salaried officers and the salary paid to each. The mayor, the selectmen or the municipal light board may direct any additional returns to be made at such time and in such detail as they may order. The mayor, selectmen or municipal light board and manager shall, at any time, on request, submit said books and accounts to the inspection of said board, and furnish any statement or information required by it relative to the condition, management and operation of said business. Records, kept where. 1891, 370, § 9. 1896, 356, 480.

SECTION 28. A city or town which owns or operates a gas or electric lighting plant shall be liable for any injury or damage to persons or property caused by its maintenance or operation, in the same manner and to the same extent as a private corporation; but it shall not be liable for damages caused by competition with an existing gas or electric lighting plant therein. Liability for injury or damage. 1891, 370, § 16.

SECTION 29. The provisions of sections four, five, six, twenty-three and twenty-seven, relative to books, accounts and returns, shall apply to a city or town authorized by special act to construct, purchase, lease, establish or maintain a gas or electric lighting plant. Application of special laws. 1892, 259, § 5.

SECTION 30. All general laws, and all ordinances or by-laws of any city or town acting under the provisions of this chapter, relative Application of general laws, and ordinances

or by-laws. 1891, 370, § 17. [1 Op. A. G. 550.]

to the manufacture, use or distribution of gas or electricity, or to the quality thereof, or to the plant or the appliances therefor, shall apply to such city or town, in the same manner as to persons, so far as applicable and consistent with the provisions of this chapter.

Revocation of locations regulated. 1891, 370, § 18. 161 Mass. 432.

SECTION 31. No city or town having within its limits the main gas works or the central electric lighting station, or the major portion of the wires, poles, conduits or pipes used in connection with any such works or plants, shall, except for a violation of the terms or conditions upon which the same were granted or for a violation of law respecting the exercise thereof, revoke any rights granted to any person or corporation engaged in the business of manufacturing or distributing gas or electricity for sale for lighting purposes, after the introduction of the first vote authorizing the establishment of a municipal lighting plant in a city council under the provisions of section two or after the calling of a town meeting under a warrant including an article on the passage of such vote, until the proceedings so begun have been finally determined by granting or denying authority to establish such plant. After the passage and ratification of both votes required by sections two or three, no city or town, except as hereinbefore provided, shall revoke any rights, locations or licenses granted to any such person or corporation.

TITLE VIII.

CHAPTER 35.

OF THE PUBLIC RECORDS.

SECTIONS 1– 4. — Commissioner of Public Records.
SECTIONS 5–23. — Public Records.

COMMISSIONER OF PUBLIC RECORDS.

SECTION 1. There shall be a commissioner of public records, who shall be appointed by the governor, with the advice and consent of the council, for a term of three years, unless sooner removed by the governor.

Commissioner of public records. Res. 1889, 103. 1892, 333, § 1.

SECTION 2. He shall receive from the commonwealth an annual salary of twenty-five hundred dollars, and he may expend not more than twenty-five hundred dollars annually for such travelling, clerical and other necessary expenses as the governor and council may approve.

Salary and expenses. 1892, 333, § 2.

SECTION 3. He shall take the necessary measures to put the records of the counties, cities, towns, churches, parishes or religious societies in the custody and condition required by law and to secure their preservation, and for that purpose he may expend from the amount appropriated for expenses such amount as he considers necessary.

Duties. 1892, 333, § 3. 1898, 67. [1 Op. A. G. 207.]

SECTION 4. He shall annually, in January, make a report to the general court, with any recommendations and suggestions as to such records.

Report. 1892, 333, § 4.

PUBLIC RECORDS.

SECTION 5. In construing the provisions of this chapter and other statutes, the words "public records" shall, unless a contrary intention clearly appears, mean any written or printed book or paper, any map or plan of the commonwealth or of any county, city or town which is the property thereof and in or on which any entry has been made or is required to be made by law, or which any officer or employee of the commonwealth or of a county, city or town has received or is required to receive for filing, and any book, paper, record or copy mentioned in the six following sections. The word "record" shall, in this chapter, mean any written or printed book, paper, map or plan.

Definition of public records. 1897, 439, § 1.

SECTION 6. All matters of public record other than maps and plans shall be entered or recorded on paper made of linen rags and new cotton clippings, well sized with animal sizing and well finished,

Quality of paper for public records. 1815, 73. R. S. 14, § 116. G. S. 29, § 1.

P. S. 37, § 1.
1891, 281.
1897, 439, § 1.

and preference shall be given to paper of American manufacture marked in water line with the name of the manufacturer.

Standard record ink.
1894, 378.
1898, 510.
1899, 354, §§ 2, 3.

SECTION 7. The commissioner shall from time to time advertise for proposals to furnish the several departments and offices of the commonwealth, and of the counties, cities or towns in which public records are kept, with ink of a standard, and upon conditions, established by him, at such periods and in such quantities as may be required, and he may make contracts therefor. The inks so furnished, before being accepted by him, shall be examined by a chemist designated by him and, if at any time any of said inks shall be found inferior to the established standard, the commissioner may cancel the contract for furnishing such ink.

Prohibition.
1894, 378.
1898, 510.
1899, 354, § 1.

SECTION 8. Persons having the care or custody of public records in any department or office of the commonwealth, or of any county, city or town, shall not, except as provided in the following section, use or permit to be used upon any public record written by them or under their direction any ink except ink furnished by the commissioner.

Certain appliances forbidden.
1899, 354, § 4.

SECTION 9. Such persons shall not use or permit to be used upon such records any ribbon, pad or other device used for printing by typewriting machines, or any ink contained in such ribbon, pad or device, except such as has been approved by the commissioner. If the commissioner finds that an article so approved is inferior to the standard established by him he shall cancel his approval.

Penalty.
1898, 510.
1899, 354, § 5.

SECTION 10. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than fifty dollars.

Custody of records; clerk.
1897, 439, §§ 2, 3.

SECTION 11. Every board or commission in charge of a department or office of the commonwealth or of a county, city or town, for which no clerk is otherwise provided by law, shall designate some person as clerk, who shall enter all its votes, orders and proceedings in books and shall have the custody of such books, and the board or commission shall designate an employee or employees who shall have the custody of the other public records of such board or commission. Every sole officer in charge of a department or office of the commonwealth or of a county, city or town who has any public records in such department or office shall have the custody thereof.

Custody of ancient records.
1783, 39, § 9.
R. S. 43, § 17.
1851, 161, §§ 5, 8.
G. S. 29, §§ 11, 12.
P. S. 37, §§ 14, 15.
1890, 227.
1892, 314, § 3.
1897, 439, § 3.

SECTION 12. Every city or town clerk shall have the custody of all records of proprietors of towns, townships, plantations or common lands, if the towns, townships, plantations or common lands to which such records relate, or the larger part thereof, are within his city or town and the proprietors have ceased to be a body politic. The secretary of the commonwealth, clerk of the county commissioners and city or town clerks shall respectively have the custody of all other public records of the commonwealth or of the county, city or town of which he is clerk, if no other disposition of such records is made by law or ordinance, and shall certify copies thereof.

SECTION 13. If a church, parish, religious society, monthly meeting of the people called Friends or Quakers, or any similar body of persons who have associated themselves together for the purpose of holding religious meetings, shall cease for the term of two years to hold such meetings, the persons having the care of any records or registries of such body, or of any officers thereof, shall deliver all such records, except records essential to the control of any property or trust funds belonging to such body, to the clerk of the city or town in which such body is situated and such clerk may certify copies thereof. If any such body, the records or registries of which, or of any officers of which, have been so delivered, shall resume meetings under its former name or shall be legally incorporated, either alone or with a similar body, the clerk of such city or town shall, upon demand in writing by a person duly authorized, deliver such records or registries to him if he shall in writing certify that to the best of his knowledge and belief said meetings are to be continued or such incorporation has been legally completed. The superior court shall have jurisdiction in equity to enforce the provisions of this section.

Church records.
1892, 314, § 3.
1897, 439, § 3.
1898, 453.

SECTION 14. Every original paper belonging to the files of the commonwealth, or of any county, city or town, bearing date earlier than the year eighteen hundred, every book of registry or record, every deed to the commonwealth or to any county, city or town, every report of an agent, officer or committee relative to bridges, highways, streets, town ways, sewers or other state, county or municipal interests or matters which are not required to be recorded in a book, and are not so recorded, shall be preserved and safely kept, and every other paper belonging to such files shall be kept for seven years after the latest original entry therein or thereon, unless otherwise provided by law; and no such paper shall be destroyed without the written approval of the commissioner of public records.

Preservation of papers.
1894, 356, §§ 1, 2.
1897, 439, § 4.

SECTION 15. County commissioners, city councils and selectmen may cause copies of records of counties, cities or towns, of town proprietaries, of proprietors of plantations, townships or common lands, relative to land situated in their county, city or town or of easements relating thereto, to be made for their county, city or town, whether such records are within or without the commonwealth. City councils and selectmen may also cause copies to be made of the records of births, baptisms, marriages and deaths which are kept by a church or parish which is in their city or town.

Copies of records.
1857, 84, §§ 1, 2.
G. S. 29, §§ 5, 6.
1865, 265.
1874, 162.
P. S. 37, §§ 5, 6, 9.
1887, 202, § 1.
1897, 439, § 5.

SECTION 16. Every person who has the custody of any public record books of a county, city or town shall, at its expense, cause them to be properly and substantially bound. He shall have any such books, which may have been left incomplete, made up and completed from the files and usual memoranda, so far as practicable. He shall cause fair and legible copies to be seasonably made of any books which are worn, mutilated or are becoming illegible, and cause them to be repaired, rebound or renovated. He may cause any such books to be placed in the custody of the commissioner of public records, who may have them repaired, renovated or rebound

Preservation of worn records.
1851, 161, §§ 2, 6.
1857, 84, §§ 1, 2.
G. S. 29, §§ 2, 7, 8.
P. S. 37, §§ 2, 7, 8.
1897, 439, §§ 6, 8.
[1 Op. A. G. 484.]

at the expense of the county, city or town to which they belong. Whoever causes such books to be so completed or copied shall attest them, and shall certify, under oath, that they have been made from such files and memoranda or are copies of the original books. Such books shall then have the force of the original records.

Records open for inspection.
1857, 84, § 3.
1851, 161, § 4.
G. S. 29, § 10.
P. S. 37, § 13.
1897, 439, § 7.

SECTION 17. Every person who has the custody of any public records shall, at reasonable times, permit them to be inspected and examined by any person, under his supervision, and shall furnish copies thereof on the payment of a reasonable fee. In cities and towns such inspection and furnishing of copies may be regulated by ordinance or by-law.

Fireproof vaults.
1811, 165.
R. S. 14, § 104.
1851, 161, §§ 1, 2.
1857, 97, § 1.
G. S. 29, §§ 3, 4.
P. S. 37, §§ 3, 4.
1897, 439, § 10.

SECTION 18. Officers or boards in charge of a state department, county commissioners, city councils and selectmen shall, at the expense of the commonwealth, county, city or town, respectively, provide and maintain fireproof rooms, safes or vaults for the safe keeping of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall furnish such rooms only with fittings of non-combustible materials.

Arrangement of records for reference.
1897, 439, § 9.

SECTION 19. All such records shall be kept in the rooms in which they are ordinarily used, and so arranged that they can be conveniently examined and referred to. When not in use, they shall be kept in the fireproof rooms, vaults or safes provided for them.

Custodian to demand records.
1897, 439, § 9.

SECTION 20. Whoever is entitled by law to the custody of public records shall demand the same from any person in whose possession they may be, and he shall forthwith deliver the same to him.

Surrender of records by retiring officer.
1891, 340.
1897, 439, § 11.

SECTION 21. Whoever has the custody of any public records shall, upon the expiration of his term of office, employment or authority, deliver over to his successor all such records which he is not authorized by law to retain, and shall make oath that he has so delivered them, according as they are the records of the commonwealth or of a county, city or town, before the secretary of the commonwealth, the clerk of the county commissioners or the city or town clerk, who shall, respectively, make a record of such oath.

Penalties.
1851, 161, §§ 4, 5, 7, 8.
1857, 97, § 2.
G. S. 29, § 13.
P. S. 37, § 16.
1890, 392.
1897, 439, § 12.

SECTION 22. Whoever unlawfully keeps in his possession any public record or removes the same from the room in which it is usually kept, or alters, defaces, mutilates or destroys any public record or violates any provision of this chapter shall, for each offence, be punished by a fine of not less than ten nor more than five hundred dollars. A public officer who refuses or neglects to perform any duty required of him by this chapter shall, for each month of such neglect or refusal, be punished by a fine of not more than twenty dollars.

Limit of application of chapter.

SECTION 23. The provisions of this chapter shall not apply to the records of the general court. 1897, 439, § 13.

TITLE IX.

OF CERTAIN RELIGIOUS, CHARITABLE AND EDUCATIONAL MATTERS.

CHAPTER 36. — Of Parishes and Religious Societies.
CHAPTER 37. — Of Donations and Conveyances for Pious and Charitable Uses.
CHAPTER 38. — Of Libraries.

CHAPTER 36.

OF PARISHES AND RELIGIOUS SOCIETIES.

SECTIONS 1–20. — General Provisions.
SECTIONS 21–23. — Organization of Religious Societies
SECTIONS 24–38. — Organization of Proprietors of Meeting-Houses.
SECTION 39. — Protestant Episcopal Churches.
SECTIONS 40–43. — Methodist Episcopal Churches.
SECTIONS 44–46. — Roman Catholic Churches.
SECTIONS 47–54. — Incorporation of Churches.
SECTION 55. — Corporate Powers subject to Alteration or Repeal.

GENERAL PROVISIONS.

Powers and liabilities of religious societies. 1786, 10, § 3. 1834, 183, § 4. R. S. 20, §§ 1, 19, 21. G. S. 30, § 1. P. S. 38, § 1. 13 Allen, 90, 497.

SECTION 1. Every religious society heretofore established or organized by virtue of any statute shall continue a body corporate with the powers given to corporations by chapter one hundred and nine, and with the powers, privileges, liabilities and duties set forth in this chapter; but the provisions of this chapter shall not impair the existing rights of property of any territorial parish.

Same subject. Amend. const., art. 11. 1834, 183, § 1. R. S. 20, § 2. G. S. 30, § 2. P. S. 38, § 2.

SECTION 2. Religious societies, incorporated or unincorporated, shall continue to have and enjoy their existing rights, privileges and immunities, except as limited or modified by the provisions of this chapter. 1 Cush. 148.

Privileges of churches connected therewith. 1799, 87, § 1. 1834, 183, § 1. R. S. 20, § 3. G. S. 30, § 3. P. S. 38, § 3.

SECTION 3. Churches connected and associated in public worship with such religious societies shall continue to have, exercise and enjoy all their accustomed privileges and liberties respecting divine worship, church order and discipline, and shall be encouraged in the peaceable and regular enjoyment and practice thereof.

16 Mass. 488. 10 Pick. 172. 5 Cush. 336, 412. 148 Mass. 404.

Membership. Amend. const., art. 11. 1834, 183, § 2. R. S. 20, § 4.

SECTION 4. No person shall be made a member of a religious society without his consent in writing. Persons belonging to such society shall continue members thereof until they file with the clerk

G. S. 30, § 6.
P. S. 38, § 4.
17 Mass. 347.
5 Pick. 498.
13 Pick. 111.

a written declaration of the dissolution of their membership; but after filing such notice they shall not be liable for any grant or contract thereafter made or entered into by such society.

21 Pick. 148. 5 Met. 73. 8 Cush. 267. 106 Mass. 479, 489.

By-laws.
1834, 183, § 3.
1835, 133, § 5.
R. S. 20, § 5.
G. S. 30, § 7.
P. S. 38, § 5.
1887, 404, § 4.

SECTION 5. A religious society may make by-laws not inconsistent with law, prescribing the manner in which persons may become members, the mode of calling and warning its meetings and regulating the management of its affairs. 1888, 326.

Women and non-residents may be members.
1869, 346, §§ 1, 2.
P. S. 38, § 6.

SECTION 6. A religious society may admit women to membership and they shall have the rights and privileges of men, and a territorial parish may admit to membership persons who are not residents of its territory.

Annual meetings and officers.
1785, 50, § 15; 70, § 16.
1786, 10, §§ 1, 2.
1852, 175, § 1.
R. S. 20, §§ 7, 15.
G. S. 30, §§ 9, 18.
P. S. 38, §§ 8, 17.
1 Cush. 148.
97 Mass. 353.

SECTION 7. Every incorporated religious society shall hold an annual meeting in March or April, or at such other time as it may prescribe by its by-laws, and, if the by-laws do not otherwise provide, at a time and place appointed by its assessors or standing committee; and at such meeting it shall choose a moderator, clerk, a standing committee or two or more assessors, a treasurer, a collector, and such other officers as it may think necessary, all of whom, except the moderator, shall hold office until the next annual meeting and until their successors are chosen and qualified. Vacancies in said offices may be filled at any legal meeting.

Tenure of office of assessors, etc.
1894, 126.

SECTION 8. The assessors or standing committee may be elected for such term, not exceeding three years, as the parish or religious society may by vote or by-law prescribe, and the vote or by-law may provide that the term of office of the assessors or members of the standing committee may expire in different years.

Moderator, clerk, etc., how chosen, etc.
1786, 10, § 1.
R. S. 20, § 7.
1838, 46.
G. S. 30, § 10.

SECTION 9. Moderators for meetings held for the choice of officers shall be elected by ballot. Clerks, assessors, treasurers and collectors shall be elected by ballot, and shall be sworn. Other officers may be elected in such mode as the society determines.

P. S. 38, § 9.

Prudential affairs, management of.
1786, 10, § 2.
R. S. 20, § 14.
G. S. 30, § 11.
P. S. 38, § 10.

SECTION 10. The prudential affairs of such societies shall be managed by their assessors or by a standing committee, who shall have like authority for calling meetings as selectmen have for calling town meetings, unless the by-laws otherwise provide. 97 Mass. 353.

When justice may call meeting.
1731–2, 10.
1786, 10, § 2.
R. S. 20, § 17.
G. S. 30, § 12.

SECTION 11. If there are no assessors or committee, or if such officers unreasonably refuse to call a meeting, a justice of the peace may, upon the application of five or more members, call a meeting in the manner provided in section twenty-two.

P. S. 38, § 11. 3 Pick. 232. 6 Met. 448. 4 Cush. 476. 97 Mass. 349.

Warrant for meeting; contents.
1733–4, 4, § 1.
1786, 10, § 2.
R. S. 20, § 16.
G. S. 30, § 13.

SECTION 12. The assessors or committee shall insert in the warrant for a meeting any matter the insertion of which five or more members of the society may in writing request. Nothing shall be acted upon at a meeting unless the subject-matter thereof was inserted in the warrant. P. S. 38, § 12. 9 Pick. 97. 149 Mass. 139.

SECTION 13. Meetings shall be warned in the manner provided by any by-law or vote of the society, or, if no such provision has been made, in such manner as the assessors or standing committee in their warrant may direct.

Meetings, how warned.
1807, 63.
R. S. 20, § 8.
G. S. 30, § 14.
P. S. 38, § 13.
1887, 404, § 4.

SECTION 14. The clerk or, if there is no clerk or if he is absent, one of the assessors or of the standing committee shall preside in the choice of a moderator, after which a clerk may be chosen, either pro tempore or to fill the vacancy. The moderator may administer the oath of office to the clerk, and the clerk to the assessors, treasurer and collector, or said oaths may be administered by a justice of the peace. 1865, 100. P. S. 38, § 14. 5 Mass. 427.

Presiding officer.
Officers, how sworn, etc.
1731–2, 10, § 2.
1733–4, 4, § 2.
1786, 10, §§ 1, 2.
1817, 184, § 2.
1831, 50.
R. S. 20, §§ 9, 10.
G. S. 30, § 15.

SECTION 15. The moderator shall have the same power as the moderator of a town meeting; and whoever is guilty of disorderly behavior at a meeting of a religious society shall be subject to the penalties provided for like offences in town meetings.

Moderator's powers.
1786, 10, § 2.
R. S. 20, § 11.
G. S. 30, § 16.
P. S. 38, § 15.

SECTION 16. If the person who is chosen collector is present and accepts the office, he shall forthwith be sworn. If not present, he shall be summoned to take the oath by a constable or by any person whom the clerk or assessors appoint for the purpose. Upon the refusal or neglect of a person present to accept such office at the time, or upon the neglect of a person so summoned, for the space of seven days, to appear and take the oath, the society shall proceed to a new choice; and so from time to time until some person accepts and is sworn.

Collector.
1786, 10, § 1.
R. S. 20, §§ 12, 13.
G. S. 30, § 17.
P. S. 38, § 16.

SECTION 17. A religious society may, at its annual meeting or at any other meeting regularly notified seven days at least before the holding thereof, grant and vote money necessary for the settlement and support of ministers or public teachers of religion, for the building or repairing of houses of public worship, for sacred music, for the purchase and preservation of burial grounds, and for other necessary parish charges. 5 Met. 73. 8 Cush. 267. 149 Mass. 139.

Appropriations.
1786, 10, § 3.
1799, 87, § 4.
1821, 67.
1828, 107.
R. S. 20, § 18.
G. S. 30, § 20.
P. S. 38, § 18.
1 Mass. 181.
5 Mass. 549.
10 Pick. 500.

SECTION 18. No parish or religious society shall assess taxes on the polls or estates of its members; but pews may be assessed as heretofore. No member of any territorial or other parish shall, as such, be personally liable for any debt or obligation of the parish incurred after the sixth day of April in the year eighteen hundred and ninety-seven.

Taxes not to be assessed on property or polls.
1887, 419.
1897, 241.

SECTION 19. A religious society may, under the provisions of sections thirty-three and thirty-four, for the purpose of altering, enlarging, removing or rebuilding its house or building a new house, take down any pews therein or sell the house. P. S. 38, § 22. 109 Mass. 21.

Pews may be taken down or house sold.
1835, 121.
R. S. 20, § 37.
1855, 256.
G. S. 30, § 36.

SECTION 20. The terms "religious society" and "society" in the preceding sections shall include parishes. G. S. 30, § 26. P. S. 38, § 23.

Preceding sections to apply to parishes.

ORGANIZATION OF RELIGIOUS SOCIETIES.

Incorporation of unincorporated religious society. 1834, 183, §§ 6, 7. R. S. 20, §§ 26, 29.

SECTION 21. An unincorporated religious society may, if it contains ten or more members, male or female, become a corporation, and may hold so much real and personal estate as may be necessary for the objects of such organization, and no more.

G. S. 30, § 4. P. S. 38, § 24.

First meeting. 1834, 183, § 6. R. S. 20, §§ 27, 28. G. S. 30, § 5. P. S. 38, § 25. 1897, 496, § 1. 149 Mass. 139.

SECTION 22. A justice of the peace may, upon application in writing by five or more of the members of such society, issue his warrant directed to one of the applicants, stating the objects of the proposed meeting, and requiring him to warn the members of the society to meet at a time and place appointed in the warrant; and such warrant may be served by posting an attested copy thereof on the principal outer door of the meeting-house of such society or by leaving such copy with, or at the last and usual places of abode of, the members of the society seven days at least before such meeting; and, upon return thereof, the same or any other justice of the peace may preside at the meeting during the choice and qualification of a clerk and until a moderator is chosen; and the society may thereupon choose a moderator and do such other things as parishes may do at their annual meetings, if the subject-matter thereof is inserted in the warrant. The clerk shall enter at large upon the records of the society the proceedings in the organization thereof.

The moderator and clerk shall forthwith make, sign, swear to and file for record in the office of the secretary of the commonwealth a certificate stating the name of the corporation, its purpose, the city or town and county where located, the date of the meeting for organization and any adjournments thereof and the names of the officers elected; otherwise the organization shall be void.

Religious society, how formed. 1880, 21. P. S. 38, § 26.

SECTION 23. Ten or more persons, male or female, who desire to form a religious society, may make an application therefor in writing to a justice of the peace, who may thereupon issue his warrant, directed to one of the applicants, stating the objects of the proposed society, and requiring him to warn said persons to meet at a time and place appointed in the warrant. The warrant shall be issued, served and executed, and the meeting held in the manner and for the purposes set forth in the preceding section; and such persons, upon complying with the provisions of said section, shall become a corporation under a name to be assumed at such meeting, with all the powers, rights and privileges, and subject to all the duties, limitations and restrictions, relating to religious societies.

ORGANIZATION OF PROPRIETORS OF MEETING-HOUSES.

Proprietors of meeting-houses may incorporate. 1840, 62, §§ 1, 2. G. S. 30, § 27. P. S. 38, § 27. 149 Mass. 138.

SECTION 24. Persons owning or proposing to build a house of public worship may organize in the manner provided by the preceding section, and shall thereupon become a corporation with the powers and subject to the duties set forth in chapter one hundred and nine and in the following sections.

Amount of estate which may be held.

SECTION 25. Such corporation may hold so much real and personal estate, in addition to its meeting-house, as may be necessary

for its objects, and no more; and the annual income thereof shall be applied to parochial purposes. P. S. 38, § 28. 148 Mass. 404.

1840, 62, § 3. G. S. 30, § 28. 1870, 67.

SECTION 26. The clerk of such corporation shall, within ten days after the meeting at which it was organized, file with the clerk of the city or town in which its meeting-house is situated, or is about to be built, and also with the secretary of the commonwealth, a true copy of the record of the proceedings of its organization; otherwise the organization shall be void. Such copies shall be recorded by the city or town clerk and by the secretary of the commonwealth, in a book kept for the purpose; and for recording the same they shall each receive the fee to which registers of deeds are entitled for like services.

Copy of record of organization to be filed with city or town clerk. 1840, 62, § 4. G. S. 30, § 29. P. S. 38, § 29. 1897, 496, § 2.

SECTION 27. Such corporation may, at a legal meeting called for the purpose, vote to alter, enlarge, repair, rebuild or remove its house, or to build a new one, and may vote the money necessary for such purpose and for the purchase of the land necessary therefor.

Alterations, repairs, etc. 1817, 189, § 1. R. S. 20, § 31. G. S. 30, § 30. P. S. 38, § 30. 149 Mass. 139.

SECTION 28. A religious society incorporated under a special act shall have the powers set forth in the preceding section, anything contained in any special act of incorporation, or in any act in amendment thereof, or in section one of this chapter, to the contrary notwithstanding.

Religious societies established under special acts to have similar powers. 1876, 84. P. S. 38, § 31.

SECTION 29. A meeting for any purpose mentioned in section twenty-seven may be called in the manner prescribed in the by-laws or votes of the corporation, or, upon application in writing by any five of the members of the corporation, by a warrant issued by a justice of the peace, directed to one of the applicants; or such meeting may be called by a notice by the clerk, if any, of the corporation, who shall warn a meeting on a like application to him; and in either case the meeting may be warned by notice served as provided in section twenty-two.

Meeting of corporation, how called. 1817, 189, § 4. R. S. 20, § 35. G. S. 30, § 31. P. S. 38, § 32. 8 Met. 301. 9 Cush. 508. 13 Allen, 92. 149 Mass. 139.

SECTION 30. Money voted by such corporation may be assessed on the pews in its meeting-house, and the assessment may be committed to its treasurer, who shall forthwith give notice by posting up an advertisement on the principal outer door of the meeting-house, stating the making of such assessment and the date of its delivery to him; and if any part of the taxes so assessed remains unpaid for three months thereafter, the treasurer shall forthwith collect the same by sales by public auction of the pews upon which such taxes remain unpaid.

Assessment and collection of money. 1817, 189, § 1. R. S. 20, § 32. G. S. 30, § 32. P. S. 38, § 33.

SECTION 31. The treasurer shall, at least three weeks before the time of the sale of a pew for taxes, post up a notice of the intended sale on the principal outer door of the meeting-house, stating the number of the pew, if any; the name of the owner or occupant, if known; and the amount of the tax due thereon; and if any part of said tax remains unpaid at the time of sale, he shall sell the pew by public auction to the highest bidder and shall execute

Sale of pews for non-payment of taxes. 1817, 189, § 2. R. S. 20, § 33. G. S. 30, § 33. P. S. 38, § 34. 3 Allen, 369.

and deliver to the purchaser a bill of sale thereof. The money arising from the sale, in excess of the taxes and reasonable incidental charges, shall be paid by the treasurer to the former owner of the pew.

Affidavit of notice of sales made evidence. 1817, 189, § 3. R. S. 20, § 34. G. S. 30, § 34.

SECTION 32. An affidavit, annexed to an original notice or to a copy thereof and recorded on the records of the corporation within six months after the sale, shall be proof of the posting up of such notice. P. S. 38, § 35.

Altering, etc., of meeting-houses. 1817, 189, § 5. R. S. 20, § 36. G. S. 30, § 35. P. S. 38, § 36. 13 Allen, 497. 109 Mass. 1.

SECTION 33. Such corporation, for the purpose of building a new house, or of altering, enlarging, repairing, rebuilding or removing a house already built, may sell the same or take down any pews therein, the pews taken being first appraised by three or more disinterested persons chosen for that purpose. The pews newly erected shall be sold by the treasurer by public auction to the highest bidder, and bills of sale thereof shall be given. The money arising from such sale shall be applied, so far as may be necessary, to paying the appraised value of the pews taken down; and the deficiency, if any, shall be paid by the corporation within thirty days after the sale.

No compensation for pews, when. 1835, 121. R. S. 20, § 38. G. S. 30, § 37.

SECTION 34. The provisions of the preceding section shall not entitle a person to compensation for a pew taken down in a meeting-house which is unfit for the purposes of public worship.

P. S. 38, § 37. 1 Pick. 102. 7 Pick. 138. 9 Cush. 508.
17 Mass. 435. 3 Pick. 344. 19 Pick. 361. 160 Mass. 118.

Assessments on pews. 1845, 213. G. S. 30, § 39. P. S. 38, § 38.

SECTION 35. A corporation for religious purposes may assess upon the pews in a church or meeting-house which it has erected or procured for public worship since the twenty-fifth day of March in the year eighteen hundred and forty-five, according to a valuation of said pews previously agreed upon, and recorded by the clerk, sums of money for the support of public worship and other parochial charges, and for the repairs of the house. Such assessments may be collected in the manner provided in sections thirty and thirty-one.

Same subject. 1852, 319, § 1. 1854, 258, § 1. G. S. 30, § 40. P. S. 38, § 39. 3 Allen, 369. 149 Mass. 138.

SECTION 36. Such corporation which had erected or procured such house prior to said date may avail itself of the provisions of the preceding section, if the consent of all the pew owners is obtained, or if two-thirds of its members present and voting at a meeting called for that purpose so determine.

Purchase of pews at appraisal. 1854, 258, § 2. G. S. 30, § 41. P. S. 38, § 40. 108 Mass. 147.

SECTION 37. A corporation which votes to avail itself of the provisions of section thirty-five shall, upon the application of a person owning a pew in its house, within one year after said vote, purchase such pew at the value determined by three disinterested persons, one of whom shall be chosen by the pew owner, one by the corporation, and the third by the two appraisers.

Pews to be personal estate. 1795, 53, § 1. 1798, 42.

SECTION 38. Pews shall be personal estate, but this provision shall not affect any existing right of dower.

R. S. 60, § 31. 1855, 122, §§ 1, 2. G. S. 30, § 38. P. S. 38, § 42.

PROTESTANT EPISCOPAL CHURCHES.

SECTION 39. In religious societies belonging to the Protestant Episcopal Church or the Reformed Episcopal Church, the rector or one of the wardens may, unless otherwise provided in some by-law, preside at their meetings with all the powers of a moderator; and the wardens, or wardens and vestry, may exercise all the powers of a standing committee in accordance with the usages and discipline of said churches. Unless they assess or collect a tax on the pews, such societies need not choose a collector or assessors; and they may in their by-laws provide that the duties of assessors shall be performed by the wardens. The officers upon whom the duties of standing committee or assessors may devolve shall be elected by ballot.

Provision for Protestant Episcopal societies. 1858, 116. G. S. 30, § 19. P. S. 38, § 43. 1886, 239. 1887, 419. 1897, 241.

METHODIST EPISCOPAL CHURCHES.

SECTION 40. The trustees of any society of the Methodist Episcopal Church, or of the African Methodist Episcopal Church, appointed according to the discipline or usages thereof, respectively, or as such society chooses, may organize and become a corporation with the powers and duties prescribed by chapter one hundred and nine, subject, however, to account to the quarterly conference of such society according to the aforesaid discipline and usages.

Organization of Methodist Episcopal churches. 1847, 280, § 1. 1857, 48, § 1. G. S. 30, § 43. P. S. 38, § 44. 109 Mass. 165.

SECTION 41. Such trustees may receive, hold and manage all the real and personal property belonging to such society, may sell and convey the same, and may hold in trust gifts, grants, bequests or devises to such society for the support of public worship and for other religious purposes; but the annual income of such trust property, exclusive of the meeting-house, shall not exceed four thousand dollars.

Powers, etc., of trustees of such churches. 1847, 280, § 2. 1857, 48, § 2. G. S. 30, § 44. P. S. 38, § 45.

SECTION 42. The first meeting of such trustees may, upon the application of three or more of them, be called by a justice of the peace, and at such meeting the trustees may choose a secretary and other officers. The provisions of this chapter relative to the warning and organization of meetings of religious societies shall, so far as appropriate, apply to meetings for the organization of such trustees. The secretary, before entering upon the duties of his office, shall be sworn to the faithful performance thereof, and a record of such oath shall be made in the records of such trustees.

First meeting, etc. 1847, 280, § 3. G. S. 30, § 45. P. S. 38, § 46.

SECTION 43. An attested copy of the record of the proceedings at such organization shall be filed with the city or town clerk, and also with the secretary of the commonwealth, and recorded within the time and in the manner prescribed in section twenty-six; otherwise the organization shall be void. 1897, 496, § 3.

Copy of record of organization to be filed with town clerk. 1847, 280, § 4. G. S. 30, § 46. P. S. 38, § 47.

ROMAN CATHOLIC CHURCHES.

SECTION 44. The Roman Catholic archbishop or bishop of the diocese in which a Roman Catholic church is erected or intended to be erected, the vicar-general of such diocese and the pastor of such church, for the time being, or a majority of them, may associate

Incorporation of Roman Catholic churches. 1879, 108, § 1. P. S. 38, § 48.

with themselves two laymen, communicants of said church, and may, with such laymen, sign a certificate in duplicate, showing the name or title by which they and their successors shall be known as a body corporate, which certificate shall be acknowledged in the same manner as conveyances of land. One copy of such certificate shall be filed in the office of the secretary of the commonwealth, and the other recorded in the registry of deeds in the county in which such church is erected or intended to be erected; and thereupon such church shall be a body corporate by the name expressed in such certificate, and the said persons so signing the same shall be the trustees thereof.

Successor of archbishop, etc., to be trustee.
1879, 108, § 1.
P. S. 38, § 49.

SECTION 45. The successor of any archbishop, bishop, vicar-general or pastor shall, by virtue of his office, be for the time being a member of such corporation in place of his predecessor; and such laymen shall hold office respectively for one year; and when the office of any such layman becomes vacant, his successor shall be appointed in the manner provided for the original selection.

Powers, etc., of trustees.
1879, 108, § 2.
P. S. 38, § 50.

SECTION 46. Such corporation may receive, hold and manage all real and personal property belonging to such church; may sell and convey the same; and may hold in trust gifts, grants, bequests or devises to such church for the support of public worship and for other religious purposes; but all the property belonging to any one church or parish and held by such corporation shall never exceed one hundred thousand dollars exclusive of the church buildings.

INCORPORATION OF CHURCHES.

Incorporation of churches.
1887, 404, § 1.

SECTION 47. Any church may be incorporated according to the provisions of the following sections.

Notice of meeting for incorporation.
1887, 404, § 2.

SECTION 48. A notice, signed by one or more of the members of such church, stating the object, time and place of the meeting for its incorporation, and the first election of officers, shall, at least fifteen days before such meeting, be posted in a conspicuous place near one of the principal entrances of the usual place of meeting of said church.

Election of officers.
1887, 404, § 3.
1891, 265.
1895, 105.

SECTION 49. At the time and place stated in said notice, the resident members of such church who are twenty-one years of age or over may assemble at their place of worship and by ballot elect a moderator, a clerk, who shall be sworn, a treasurer, a standing committee of not less than three nor more than twenty-four members or a board of trustees, managers, directors, executive committee, prudential committee, wardens and vestry or other officers with the powers of a standing committee, and such other officers as they may deem necessary.

By-laws.
1887, 404, § 4.

SECTION 50. The church may make by-laws and may prescribe therein the manner in which and the officers and agents by whom the purposes of its incorporation may be effected. If no provision is made by a vote or by-law of the church for calling meetings,

they shall be called in such manner as the standing committee may direct.

SECTION 51. The standing committee or other officers shall certify the organization of such church to the commissioner of corporations, in such form as he shall prescribe; and he, with the secretary of the commonwealth, upon payment of a fee of five dollars to the secretary, shall perform the same duties and with the same legal effect as in the case of corporations organized under chapter one hundred and twenty-five. Certification of organization. 1887, 404, § 5.

SECTION 52. None but members of such church shall be members of such corporation, and only resident members of full age shall vote. Members of church to be voters. 1887, 404, § 6.

SECTION 53. The deacons, wardens, trustees or similar officers of a church so incorporated which holds real or personal estate under the provisions of chapter thirty-seven, may, subject to the same uses and trusts as when held by them, convey it to said church. Deacons may convey estate to the incorporated church. 1887, 404, § 7.

SECTION 54. Any religious society connected with a church so incorporated may, at any meeting called for the purpose, by a three-fourths vote, authorize one or more persons in its name and behalf to convey any real or personal estate belonging to it to such church, and such estate shall thereafter be held by the church subject to the same uses and trusts as when held by said religious society. Religious societies may convey estate to such church. 1887, 404, § 8.

CORPORATE POWERS SUBJECT TO ALTERATION OR REPEAL.

SECTION 55. All corporate powers granted to any religious corporation shall be subject to alteration or repeal by the general court. Corporate powers to be subject to alteration or repeal. 1834, 183, § 7.

R. S. 20, § 29. 1840, 62, § 2. G. S. 30, §§ 4, 27, 43. 1879, 108, § 2. P. S. 38, § 51.

CHAPTER 37.

OF DONATIONS AND CONVEYANCES FOR PIOUS AND CHARITABLE USES.

SECTION 1. The deacons, wardens or similar officers of churches or religious societies, and the trustees of the Methodist Episcopal churches, appointed according to the discipline and usages thereof, shall, if citizens of this commonwealth, be deemed bodies corporate for the purpose of taking and holding in succession all gifts, grants, bequests and devises of real or personal estate, made either to them and their successors, or to their respective churches, if unincorporated, or to the poor of their churches. Deacons, etc., made bodies corporate. 1754–5, 12, § 1. 1785, 51, § 1. R. S. 20, § 39. G. S. 31, § 1. 1874, 177. P. S. 39, § 1. 1884, 78. 12 Met. 250. 5 Cush. 336. 9 Cush. 181.

SECTION 2. When the ministers, elders or vestry of a church are joined in the gifts, grants, bequests or devises mentioned in the preceding section, as donees or grantees with the deacons, wardens or trustees, such officers and their successors, with the deacons, wardens or trustees shall be deemed the corporation for the purposes mentioned in the preceding section. 4 Cush. 281. Ministers, etc., to be joined in body corporate. 1754–5, 12, § 1. 1785, 51, § 1. R. S. 20, § 40. G. S. 31, § 2. P. S. 39, § 2. 12 Met. 250.

Trustees to hold funds, etc.
1853, 389, § 1.
G. S. 30, § 25.
1869, 248.
P. S. 39, § 10.
1884, 78.

SECTION 3. Incorporated and unincorporated religious societies and churches may appoint trustees, not exceeding five, to hold and manage trust funds for their benefit, who shall hold their offices for three years and until others are appointed in their stead. At or before the time of the first appointment of such trustees, the society may establish regulations for their government, which shall not be subject to alteration or amendment except by consent of all the trustees in office at the time and by a two-thirds vote of the church or society interested therein. Any funds held by the bodies corporate mentioned in the two preceding sections may be transferred to said trustees to be held in trust in like manner by them.

Trustees may be appointed by churches and religious societies.
1884, 78.

SECTION 4. Churches or religious societies may appoint trustees, not exceeding five, who shall with their successors be a body corporate, for the purposes mentioned in section one, and shall be subject to all of the provisions of this chapter applicable thereto.

Ministers may take in succession any parsonage land.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 41.
G. S. 31, § 3.
P. S. 39, § 3.

SECTION 5. The minister of a church or religious society, if a citizen of this commonwealth, shall be capable of taking in succession any parsonage land granted to the minister and his successors, or to the use of the ministers, or granted by words of like import, and may prosecute or defend any action relative to such land.

2 Mass. 500. 7 Mass. 445. 10 Mass. 93. 14 Mass. 333. 15 Mass. 464.

Conveyance of church land regulated.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 42.
G. S. 31, § 4.
1874, 177.
P. S. 39, § 4.
2 Mass. 500.

SECTION 6. No conveyance of the land of a church shall be effectual to pass the same, if made by the deacons without the consent of the church or of a committee of the church appointed for that purpose, or if made by the wardens without the consent of the vestry, or if made by the trustees of the Methodist Episcopal Church without the consent of the quarterly conference. 14 Mass. 333.

Conveyance of church land by minister.
1785, 51, § 1.
R. S. 20, § 43.
G. S. 31, § 5.
P. S. 39, § 5.

SECTION 7. No conveyance by a minister of land held by him in succession shall be valid longer than he continues to be such minister, unless made with the consent of the religious society of which he is minister, or unless he is the minister of an Episcopal church and makes the conveyance with the consent of the vestry.

Committees to settle with deacons, etc.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 44.
G. S. 31, § 6.
P. S. 39, § 6.

SECTION 8. The several churches, other than those of the Episcopal denomination, may choose committees to settle the accounts of the deacons and other church officers, and, if necessary, to prosecute suits in the name of the church against them relative to the same.

Income of gifts to churches limited.
1754-5, 12, § 3.
1785, 51, § 2.
R. S. 20, § 45.
G. S. 31, § 7.

SECTION 9. The income of the gifts, grants, bequests and devises made to or for the use of any one church shall not exceed two thousand dollars a year, exclusive of the income of any parsonage land granted to or for the use of the ministry. P. S. 39, § 7.

Overseers of monthly meetings of Friends, or Quakers, to be a corporation.
1811, 6, § 3.
1822, 92.

SECTION 10. The overseers of each monthly meeting of the people called Friends, or Quakers, shall be a body corporate for the purpose of taking and holding in succession gifts and grants of real or personal estate made to the use of such meeting or to the use of any preparative meeting belonging thereto; and they

may manage or convey such estate according to the terms and conditions of such gifts and grants, and may prosecute or defend any action relative to the same; but the income thereof to any one of such meetings for the uses aforesaid shall not exceed five thousand dollars a year.

R. S. 20, § 46. G. S. 31, § 8. P. S. 39, § 8. 8 Cush. 430. 7 Allen, 243.

SECTION 11. Such monthly meeting may appoint, in such manner and for such time as it may determine, three members of any preparative meeting which belongs to it or forms a part thereof to act as a board of trustees. Such trustees and their successors shall be a body corporate for the purpose of taking, holding, managing or conveying any real estate which may be owned or acquired by such preparative meeting or granted to the use of said meeting, and, upon their appointment, the power of the overseers of such monthly meeting to receive, hold or manage any real estate for the use of such preparative meeting shall cease, and they shall convey to said trustees any real estate the legal title to which is vested in them as the body corporate in trust for such preparative meeting to be held by said trustees upon the same trusts. The trustees may manage and convey any real estate held by them upon the same terms and conditions upon which it was granted and may prosecute or defend any action relative thereto, but they shall not convey it without the consent in writing of the preparative meeting, granted as the decision of said meeting. The income of real estate so held by them in trust and the income of any gifts of personal estate which may be held by overseers for the same preparative meeting under the provisions of the preceding section shall not, in all, exceed five thousand dollars a year.

Trustees for preparative meetings. 1900, 127.

SECTION 12. Unincorporated religious societies shall have like power as incorporated societies to manage, use and employ, according to its terms and conditions, any gift or grant made to them; they may elect trustees, agents or other officers therefor, and may sue for any right which may vest in them in consequence of such gift or grant; for which purposes they shall be corporations.

16 Gray, 329. 6 Allen, 140. 109 Mass. 163. 167 Mass. 204.

Unincorporated societies may hold gifts, etc. 1811, 6, § 3. 1834, 183, § 5. R. S. 20, § 25. G. S. 30, § 24. P. S. 39, § 9. 5 Met. 155. 8 Met. 153.

SECTION 13. All trustees, whether incorporated or not, who hold funds given or bequeathed to a city or town for a charitable, religious or educational purpose shall make an annual exhibit of the condition thereof to the board of aldermen of the city, or to the selectmen of the town to which such funds have been given or bequeathed; and the records of all transactions by the trustees relative to such funds shall be open to inspection by the board to which such exhibit is to be made.

Trustees to make annual reports. 1855, 302, § 1. G. S. 31, § 9. P. S. 39, § 11.

SECTION 14. The probate court for the county in which a city or town is situated, to which funds have been so given or bequeathed, may, upon the petition of five persons, cite all parties interested to appear before it to answer all complaints which may then and there be made; and if a trustee neglects or refuses to render such annual exhibit, or is incapable of discharging the trust reposed in him, or unsuitable to manage the affairs of the same, the court may remove him and fill the vacancy.

—may be removed by probate courts. 1855, 302, § 2. G. S. 31, § 10. P. S. 39, § 12.

CHAPTER 38.

OF LIBRARIES.

SECTION 1.—General Provision.
SECTIONS 2–5.—Law Libraries.
SECTION 6.—City and Town Libraries.
SECTIONS 7–10.—Trustees of Town Libraries.
SECTIONS 11–17.—Board of Free Public Library Commissioners.

GENERAL PROVISION.

Existing corporations, etc.

SECTION 1. Library corporations and associations which have been legally established shall continue to have all the powers and privileges and be subject to all the duties and restrictions attaching thereto.

LAW LIBRARIES.

Organization of law library associations.
1842, 94, § 1.
1856, 184.
G. S. 33, § 2.
P. S. 40, § 2.

SECTION 2. Attorneys at law who have been admitted to practice in the courts of the commonwealth and who are resident in a county for which there is no law library association may organize as a corporation, under the provisions of chapter one hundred and twenty-five, by the name of the Law Library Association for such county, and may adopt by-laws which shall be subject to the approval of the superior court.

Use of library.
1842, 94, § 2.
G. S. 33, § 5.
P. S. 40, § 5.

SECTION 3. The inhabitants of the county shall have access to the library and may use the books therein, subject to the provisions of the by-laws.

Payments to law library associations.
1856, 71, § 2.
G. S. 33, § 7.
1881, 89.
P. S. 40, §§ 6, 7.
1882, 246.
1897, 505.

SECTION 4. County treasurers shall annually pay to the law library associations in their respective counties all sums which are paid into the county treasuries during the year by the clerks of the courts, to an amount not exceeding two thousand dollars in any one year. They may also pay to said associations such further sums as the county commissioners may consider are necessary and proper. All sums which are so paid shall be applied to maintain and enlarge such libraries for the use of the courts and of citizens. The treasurer of the law library association, before receiving any money from the county treasurer, shall give bond, with sureties to the satisfaction of the commissioners, for the faithful application of such money, and that he will make a return annually to them, under oath, of the manner in which it has been expended.

Law library associations entitled to certain books.
1871, 387.
P. S. 40, § 8.

SECTION 5. Each law library association shall be entitled to receive from the sergeant-at-arms, immediately after their publication, one copy of the legislative documents of the senate and house, the journal of the senate and the journal of the house.

CITY AND TOWN LIBRARIES.

City and town libraries.
1851, 305, §§ 1, 3.
G. S. 33, §§ 8, 9.
1866, 222.

SECTION 6. A city or town may establish and maintain public libraries for the use of its inhabitants, under regulations prescribed by the city council or by the town, and may receive, hold and man-

age any gift, bequest or devise for such library. The city council of a city or the selectmen of a town may place in such library the books, reports and laws which may be received from the commonwealth. 1871, 26. R. S. 40, §§ 9-11. 10 Allen, 169. 149 Mass. 157.

TRUSTEES OF TOWN LIBRARIES.

SECTION 7. A town which raises or appropriates money for the support of a free public library, or free public library and reading-room, owned by the town, shall, at an annual meeting or special meeting, unless the same has been acquired entirely or in part through some gift or bequest which contains other conditions or provisions for the election of its trustees or for its care and management which have been accepted by the town, elect by ballot a board of trustees consisting of any number of persons, male or female, divisible by three, which the town determines to elect. When such board is first chosen, one-third thereof shall be elected for one year, one-third for two years and one-third for three years, and thereafter one-third shall be elected annually for a term of three years. The board shall, from its own number, annually choose a chairman and secretary and, if the town so votes, a treasurer, who shall give a bond similar to that given by the town treasurer, in an amount and with sureties to the satisfaction of the selectmen. The town treasurer shall act as treasurer of the board of trustees until the town otherwise directs. Trustees of town libraries. 1888, 304, §§ 1, 2, 5. 1889, 112.

SECTION 8. The board shall have the custody and management of the library and reading room and of all property owned by the town relating thereto. All money raised or appropriated by the town for its support and maintenance shall be expended by the board, and all money or property which the town may receive by gift or bequest for said library and reading room shall be administered by the board in accordance with the provisions of such gift or bequest. —powers and duties of. 1888, 304, § 4.

SECTION 9. The board shall make an annual report to the town of its receipts and expenditures and of the property in its custody, with a statement of any unexpended balance of money and of any gifts or bequests which it holds in behalf of the town, with its recommendations. —to make annual report. 1888, 304, § 6.

SECTION 10. The provisions of the three preceding sections shall not apply to library associations, nor to a library organized under a special act. Library associations, etc., not affected. 1888, 304, § 7.

BOARD OF FREE PUBLIC LIBRARY COMMISSIONERS.

SECTION 11. There shall be a board of free public library commissioners consisting of five persons, residents of the commonwealth, one of whom shall annually be appointed by the governor, with the advice and consent of the council, for a term of five years. The governor shall designate the chairman thereof. Board of free public library commissioners. 1890, 347, § 1. 1897, 134.

SECTION 12. No member shall receive any compensation, but the board may annually expend not more than five hundred dollars, payable by the commonwealth, for clerical assistance and for other —to serve without pay. 1890, 347, §§ 2, 6.

necessary expenses. It shall annually in January make a report to the general court.

Board to advise as to selection of books. 1890, 347, § 2.

SECTION 13. The board shall advise the librarian or trustees of any free public library relative to the selection or cataloguing of books and any other matter pertaining to the maintenance or administration of the library.

Purchase of books for towns having no library. 1890, 347, § 3.

SECTION 14. Said board may, upon the application of the library trustees of a town which has complied with the provisions of sections sixteen and seventeen, and which has no free public library owned and controlled by the town, expend not more than one hundred dollars for books to be selected and purchased by said board and delivered to said trustees for the purpose of establishing a free public library.

— for small towns having a library. 1892, 255. 1900, 233.

SECTION 15. If a town, the valuation of which is not more than six hundred thousand dollars and which has a free public library, has complied with all laws relative to the maintenance of such library, and the trustees of the library provide, to the satisfaction of the board, for the distribution of books in different parts of the town where such distribution is necessary, by means of branch libraries or deliveries, and for practical and effective means of rendering the library useful to the teachers and scholars of the public schools in such town, the board may expend, in such amounts and at such times as they determine, not more than one hundred dollars for the purchase of books for each free public library owned and controlled by such town.

Acceptance of provisions. 1890, 347, § 4.

SECTION 16. A town shall not be entitled to the benefits of the three preceding sections until it accepts the same or has accepted the corresponding provisions of earlier laws and has elected a board of library trustees as provided in section seven, nor until said trustees have made provision satisfactory to said commissioners for the care and distribution of the books furnished by them.

Limit of appropriations for library. 1890, 347, § 5.

SECTION 17. Such town shall, if its last assessed valuation was one million dollars or over, annually appropriate from the dog tax, or otherwise provide for the use and maintenance of its free public library, not less than fifty dollars; if such valuation was less than one million dollars and not less than two hundred and fifty thousand, not less than twenty-five dollars; and if such valuation was less than two hundred and fifty thousand dollars, not less than fifteen dollars.

TITLE X.

OF PUBLIC INSTRUCTION AND REGULATIONS RESPECTING CHILDREN.

CHAPTER 39. — Of the Board of Education.
CHAPTER 40. — Of Teachers' Institutes and Associations.
CHAPTER 41. — Of the School Funds.
CHAPTER 42. — Of the Public Schools.
CHAPTER 43. — Of School Registers and Returns.
CHAPTER 44. — Of School Attendance.
CHAPTER 45. — Of the Nautical Training School.
CHAPTER 46. — Of Truants and Truant Schools.

CHAPTER 39.

OF THE BOARD OF EDUCATION.

Board of education.
1837, 241, § 1.
G. S. 34, § 1.
P. S. 41, § 1.

SECTION 1. The board of education shall consist of the governor and lieutenant governor, ex officiis, and eight other persons, one of whom shall annually in May be appointed by the governor, with the advice and consent of the council, for a term of eight years.

—secretary of.
1837, 241, § 2.
1847, 183, § 1.
1849, 215, § 1.
G. S. 34, § 4.
P. S. 41, § 4.
103 Mass. 98.

SECTION 2. The board may appoint a secretary, who, under its direction, shall make the abstract of school returns required by the provisions of section seven, shall collect and distribute information respecting the condition and efficiency of the public schools and other means of popular education, and the best system of studies and the best method of instruction.

—salary and expenses of secretary of.
1837, 241, § 2.
1838, 159, § 2.
1849, 215, §§ 2, 3.
1853, 49.
G. S. 34, § 8.
1862, 212.

SECTION 3. He shall receive an annual salary of four thousand dollars, and five hundred dollars for travelling expenses, which shall be paid from the half of the school fund applicable to educational expenses. The incidental and other necessary expenses of his office shall be paid by the commonwealth.

1864, 99. 1865, 246. 1867, 276. 1876, 110. P. S. 41, § 8. 1885, 227. 1894, 176.

—expenses of.
1838, 55.
G. S. 34, § 10.
P. S. 41, § 10.
1895, 132.
1901, 262.

SECTION 4. The board may annually expend not more than twenty-three hundred dollars for clerical and messenger service, which, with the incidental expenses of the board and the expenses of the members thereof incurred in the performance of their official duties, shall be paid by the commonwealth.

Trustee of funds for educational purposes.
1850, 88.
G. S. 34, § 2.
P. S. 41, § 2.

SECTION 5. The board may take and hold, in trust for the commonwealth, a grant or devise of land, or a gift or bequest of money or other personal property made to it for educational purposes; and shall forthwith pay it over or deliver it to the treasurer and receiver general, who shall invest such money in the name of the commonwealth and, on the warrant of the governor, pay to the board the income or principal thereof, as it shall require; but no disposition shall be made of any gift, bequest or devise which is inconsistent with its conditions or terms. The treasurer and receiver general shall be responsible upon his bond to the commonwealth for the faithful management of all property so received by him.

Board to prescribe form of census, etc.
1837, 241, §§ 2, 3.
1838, 105, §§ 5–7.
1846, 223, § 3.
1849, 209.
G. S. 34, § 3.
P. S. 41, § 3.
1898, 496, § 13.

SECTION 6. The board shall prescribe the form of census required by the provisions of section three of chapter forty-three, of registers to be kept in the public schools and of returns to be made by school committees; shall annually, on or before the third Wednesday of January, make to the general court a report containing a printed abstract of said returns and a detailed report of all the doings of the board, with observations upon the condition and efficiency of the system of public education and suggestions in regard to the most practicable means of improving and extending it.

Duties of secretary.
1849, 215, § 1.
1858, 61.
G. S. 34, § 5.
P. S. 41, § 5.
1901, 112.

SECTION 7. The secretary shall suggest improvements in the present system of public schools to the board and to the general court; shall visit, as often as his other duties will permit, different parts of the commonwealth for the purpose of arousing and guiding public sentiment in relation to the practical interests of education; shall collect in his office such school books, apparatus, maps and charts as can be obtained without expense to the commonwealth; shall receive and arrange in his office the reports and returns of the school committees; and shall receive, preserve or distribute the state documents relative to the public school system. He may also publish for general distribution such parts of the annual report of the board and such other matters as he may consider best adapted to promote the interests of public school education, if the expense thereof is paid out of the appropriation for the incidental and contingent expenses of the board and does not in any one year exceed five hundred dollars.

Same subject.
1838, 159, § 1.
1842, 42.
G. S. 34, § 6.
P. S. 41, § 6.

SECTION 8. He shall, under the direction of the board, give sufficient notice of and attend such meetings of teachers of public schools, of members of the school committees of the several towns and of friends of education generally in any county as may assemble at the time and place designated by the board; and shall at such meetings devote himself to collecting information relative to the condition of the public schools of such county, the fulfilment of their duties by the school committees of all the cities and towns, and the condition of the towns in regard to teachers, pupils, books, apparatus and methods of education, with a view to enabling him to furnish all information desired for the annual report.

Agents of board.
Res. 1857, 22.

SECTION 9. The board may appoint agents to visit the cities and towns for the purpose of inquiring into the condition of the

schools, of conferring with teachers and committees, of lecturing upon subjects connected with education, and in general of giving and receiving information upon such subjects in the same manner as the secretary. Such agents shall not be pecuniarily interested, directly or indirectly, in the publication or sale of any text book, school book or article of school supply used in the public schools of this commonwealth.

G. S. 34, § 9. 1862, 212. P. S. 41, § 9. 1896, 429.

SECTION 10. The board shall have the general management of the state normal schools and the boarding houses connected therewith, and money appropriated for their maintenance may be expended under its direction. The accounts of the boarding houses shall be kept under the direction of the auditor of accounts.

Normal schools, management of. 1870, 106. P. S. 41, § 12. 1891, 384.

SECTION 11. The cities of North Adams, Fitchburg and Lowell and the town of Barnstable shall each agree in writing with the board to provide suitable and sufficient school buildings and model and practice schools in connection with the training departments of the state normal schools therein. The board may, at the request of a city or town in the vicinity of said state normal schools, agree in writing with such city or town for the maintenance of practice schools therein in connection with such normal schools, and may provide for the payment of a portion of the compensation of the supervising teachers employed in such practice schools. The treasurer and receiver general shall receive all money payable under said agreements and shall expend it under the direction of the board for the purposes specified in this section without an appropriation therefor.

Practice schools. 1894, 457, §§ 6, 7. 1896, 133.

SECTION 12. The board may hold summer schools for teachers at an annual expense to the commonwealth of not more than fifteen hundred dollars.

Summer schools. 1900, 219.

SECTION 13. The board shall, at convenient times and places designated by it, cause public examinations to be held of candidates for the position of teacher in the public schools. Such examinations shall test the professional as well as the scholastic abilities of candidates, and shall be conducted by the persons and in a manner designated by the board. Public notice of the time, place and other conditions of the examinations shall be given in such manner as the board may determine.

Examination of school teachers by board. 1894, 329, § 1.

SECTION 14. A certificate of qualification shall be given to all candidates who pass satisfactory examinations in such branches as are required by law to be taught in the public schools and who in other respects fulfil the requirements of the board. Such certificate shall be either probationary or permanent, and shall indicate the grade of school in which the candidate is qualified to teach.

Certificates of qualification. 1894, 329, § 2.

SECTION 15. A list of approved candidates shall be kept in the office of the secretary of the board, and copies thereof, with such information as may be desired, shall be sent to school committees at their request.

List of approved candidates. 1894, 329, § 3.

Expenses authorized. 1894, 329, § 5.

SECTION 16. An amount not exceeding five hundred dollars may be annually expended in carrying out the provisions of the three preceding sections.

Statistics as to pupils, instruction, etc. 1867, 123, § 1. P. S. 41, § 13.

SECTION 17. The trustees, officers or persons in charge of literary, scientific or professional institutions of learning, incorporated, supported or aided by the commonwealth, and of all reform schools, almshouses or private educational institutions shall annually, on or before the first day of June, make a report in writing to the board, of such statistics as it shall prescribe, relative to the number of pupils and instructors, courses of study, cost of tuition, and the general condition of the institution or school under their charge.

— blanks for, to be prepared. 1867, 123, § 2. P. S. 41, § 14. U. S. Rev. Sts., § 516.

SECTION 18. The board shall prepare blank forms of inquiry for such statistics, and shall annually, on or before the tenth day of May, send the same to every such institution or school. Said forms shall be prepared with reference to the requirements of the bureau of education established by the government of the United States.

Instruction of the deaf. 1867, 311, § 4. 1868, 200. 1869, 333. 1871, 300. P. S. 41, § 16. 1886, 241. 1887, 179. 1888, 239. 1889, 226.

SECTION 19. The governor may, upon the request of the parents or guardians and with the approval of the board, send such deaf persons as he considers proper subjects for education, for a term not exceeding ten years, but, upon like request and with like approval, he may continue for a longer term the instruction of meritorious pupils recommended by the principal or other chief officer of the school of which they are members, to the American School, at Hartford, for the Deaf, in the state of Connecticut, to the Clarke School for the Deaf at Northampton, to the Horace Mann School at Boston, or to any other school for the deaf in the commonwealth, as the parents or guardians may prefer; and with the approval of the board he may, at the expense of the commonwealth, make such provision for the care and education of children who are both deaf and blind as he may deem expedient. No distinction shall be made on account of the wealth or poverty of such children or their parents. No such pupil shall be withdrawn from such institutions or schools except with the consent of the authorities thereof or of the governor; and the expenses of the instruction and support of such pupils in such institutions or schools, including their necessary travelling expenses, whether daily or otherwise, shall be paid by the commonwealth; but the parents or guardians of such children may pay the whole or any part of such expense.

— supervision and report of. 1867, 311, § 3. P. S. 41, § 17.

SECTION 20. The board shall direct and supervise the education of all such pupils, and shall state in its annual report the number of pupils so instructed, the cost of their instruction and support, the manner in which the money appropriated by the commonwealth therefor has been expended and such other information as it considers important.

Admission, etc., to school for the blind under supervision of board. 1885, 118.

SECTION 21. The board shall have the same supervision over the admission to, and instruction of pupils in, the Perkins Institution and Massachusetts School for the Blind as it now exercises over the instruction of the deaf under the provisions of the two preceding sections.

CHAPTER 40.

OF TEACHERS' INSTITUTES AND ASSOCIATIONS.

SECTION 1. If twenty-five teachers of public schools in at least three contiguous towns desire to form a teachers' institute, the board of education shall, by a committee, by its secretary or, in case of his inability, by such person as it may delegate, appoint a time and place for such meeting and make suitable arrangements therefor.

Teachers' institutes, meetings of.
1846, 99, § 1.
1848, 10.
1849, 62.
G. S. 35, § 1.
P. S. 42, § 1.
1896, 186.

SECTION 2. An amount not exceeding three thousand dollars may annually be paid from the half of the income of the Massachusetts school fund not apportioned for distribution to towns to defray the necessary expenses and charges and to procure teachers and lecturers for such institutes.

—expenses of.
1846, 99, § 3.
1854, 300, §§ 3, 4.
Res. 1850, 65.
G. S. 35, § 2.
1873, 292, § 1.
1876, 47, § 4.
P. S. 42, § 2.

SECTION 3. The board of education may determine the length of the session of such institute, and may apply not more than three hundred and fifty dollars from the amount authorized by the provisions of the preceding section, to meet the expenses thereof.

P. S. 42, § 3.

—length of session, and expense of.
1846, 99, § 2.
1849, 62.
1852, 216.
G. S. 35, § 3.

SECTION 4. If a county association of teachers and others holds an annual meeting of not less than one day for the express purpose of promoting the interests of public schools, it shall, upon filing with the governor a certificate, under oath, of its president and secretary that a meeting has been so held, receive twenty-five dollars from the commonwealth.

Payment to county teachers' associations.
1848, 301, § 1.
G. S. 35, §§ 4, 5.
1864, 58, §§ 1, 2.
1880, 93.
P. S. 42, § 4.

SECTION 5. If the Dukes County Educational Association holds an annual meeting of not less than three days for the express purpose of promoting the interests of the public schools, it shall, upon filing with the governor a certificate of the president and secretary of said association, under oath, that an annual meeting has been held in accordance with the provisions of this section, receive fifty dollars from the commonwealth.

—to Dukes County Educational Association.
1866, 61.
1872, 215.

SECTION 6. Subject to the approval of the board of education, three hundred dollars shall annually be allowed and paid from the half of the income of the Massachusetts school fund not apportioned for distribution to towns, to the president or treasurer of the Massachusetts Teachers' Association, to be applied to the purposes of said association.

—to Massachusetts Teachers' Association.
Res. 1880, 30.
P. S. 42, § 5.

CHAPTER 41.

OF THE SCHOOL FUNDS.

SECTIONS 1–7.—Massachusetts School Fund.
SECTION 8.—Todd Normal School Fund.

MASSACHUSETTS SCHOOL FUND.

School fund. Income only to be used.
1834, 169, § 1.
R. S. 11, § 13.
1854, 333.
G. S. 36, § 1.
P. S. 43, § 1.
1890, 335, § 1.

SECTION 1. The present school fund of the commonwealth, such additions as may be made thereto and any money received by the commonwealth from the government of the United States, the disposition of which is not otherwise provided for, shall constitute a permanent fund, to be called the "Massachusetts School Fund." The principal thereof shall not be diminished, and the income shall be appropriated as hereinafter provided.

—provision for.
Res. 1894, 90.

SECTION 2. The sum of one hundred thousand dollars shall annually be paid from the treasury of the commonwealth into said fund, until the principal thereof amounts to five millions of dollars.

—commissioners to manage and report thereon.
1834, 169, § 2.
R. S. 11, § 14.
G. S. 36, § 1.
1866, 53.
P. S. 43, § 2.
1890, 335, § 2.

SECTION 3. The secretary of the board of education and the treasurer and receiver general shall be commissioners, who shall invest and manage the fund, and report annually to the general court the condition and income thereof. The premiums on any securities purchased for said fund, to an amount not exceeding in any one year fifty thousand dollars, may be paid from any money in the treasury of the commonwealth, not otherwise appropriated. All investments shall be made with the approval of the governor and council.

—distribution of income of.
1835, 138, § 2.
R. S. 23, § 67.
1854, 300, §§ 2, 3.
1858, 96, § 2.
G. S. 36, § 2.
1865, 142.
1866, 208.
1869, 168.
1870, 45.
1874, 348, §§ 1, 2.
P. S. 43, § 3.
1884, 22.
1891, 177.
1893, 272.

SECTION 4. One-half of the annual income of said school fund shall, without a specific appropriation, be apportioned and distributed for the support of public schools, in the following manner: every town which complies with all laws relative to the distribution of said income and whose valuation of real and personal property, as shown by the last preceding assessors' valuation thereof, does not exceed one-half million dollars shall annually receive three hundred dollars; but if its rate of taxation for any year shall be eighteen dollars or more on a thousand dollars, it shall receive fifty dollars additional; every such town whose valuation is more than one-half million dollars and does not exceed one million dollars shall receive two hundred dollars; and every such town whose valuation is more than one million dollars and does not exceed two million dollars shall receive one hundred dollars; and every such town whose valuation is more than two million dollars and does not exceed three million dollars shall receive fifty dollars. The remainder of said half shall be distributed to towns whose valuation does not exceed three million dollars and whose annual tax for the support of the public schools is not less than one-sixth of their whole tax for the year, as follows: every town whose school tax is not less than one-third of its whole tax shall receive a proportion of said remainder expressed by one-third;

every town whose school tax is not less than one-fourth of its whole tax shall receive a proportion expressed by one-fourth; every such town whose school tax is not less than one-fifth of its whole tax shall receive a proportion expressed by one-fifth; and every such town whose school tax is not less than one-sixth of its whole tax shall receive a proportion expressed by one-sixth. All money appropriated for other educational purposes, unless otherwise provided, shall be paid from the other half of said income. If the income in any year exceeds such appropriations, the surplus shall be added to the principal of said fund.

SECTION 5. The income of said fund, appropriated to the support of public schools, which has accrued on the thirty-first day of December in each year, shall be apportioned by said commissioners in the manner provided in the preceding section, and paid to the several towns on the twenty-fifth day of January thereafter.

School fund, apportionment of income of. R. S. 23, §§ 66, 67. 1846, 223, § 5. 1849, 117, §§ 2, 3.

G. S. 36, § 3. 1867, 98. P. S. 43, § 4.

SECTION 6. No such apportionment and distribution shall be made to a town which has not maintained a school as required by section one of chapter forty-two; or which, if containing the number of families or householders required by section two of said chapter, has not maintained, for at least thirty-six weeks during the year, exclusive of vacations, a high school such as is mentioned therein; or which has not made the returns required by sections five and six of chapter forty-three, and complied with the laws relative to truancy; or which has not raised by taxation for the support of public schools which are authorized or required by law, including the wages of teachers, the transportation of school children, fuel, the care of fires, school rooms and school premises, supervision, text books and supplies, and school sundries or incidentals during the school year embraced in the last annual returns, an amount not less than three dollars for each person between the ages of five and fifteen years resident in such town on the first day of September of said school year.

—income of, to be withheld from certain towns. 1834, 169, § 3. 1835, 138, § 1. R. S. 23, § 66. G. S. 36, § 3. 1865, 142, § 1. 1866, 208, § 2. 1878, 234, § 1. P. S. 43, § 5. 139 Mass. 374. [1 Op. A. G. 517.]

SECTION 7. The income of said fund shall be applied by the school committees of the towns receiving it to the support of the public schools therein; but said committees may apply not more than twenty-five per cent thereof to the purchase of books of reference, maps and apparatus for the use of said schools.

—application of income of, by towns. G. S. 36, § 4. P. S. 43, § 6.

TODD NORMAL SCHOOL FUND.

SECTION 8. The income of the Todd fund shall be paid to the board of education, to be applied by said board to specific objects, in connection with the normal schools, not provided for by legislative appropriation.

Todd fund, how applied. 1850, 63. G. S. 36, § 7. 1862, 83, § 1. P. S. 43, § 9.

CHAPTER 42.

OF THE PUBLIC SCHOOLS.

SECTIONS 1–24. — Public Schools.
SECTIONS 25–39. — School Committees.
SECTIONS 40–42. — Superintendents of Public Schools.
SECTIONS 43–48. — Superintendents of Schools for Small Towns.
SECTIONS 49–51. — School Houses.
SECTIONS 52, 53. — General Provisions.

PUBLIC SCHOOLS.

Public schools. Branches taught. C. L. 136, 305. 1692-3, 26, § 5. 1789, 19, § 1. 1823, 111. 1826, 143, § 1. R. S. 23, § 1. 1839, 56, § 1. 1850, 229. 1857, 206, § 1. 1858, 5. 1859, 263. G. S. 38, § 1. 1862, 7. 1870, 248, § 1. 1876, 3, § 1. P. S. 44, § 1. 1884, 69. 1885, 332. 1894, 231; 320, § 1. 1898, 496, § 1. 1900, 218. 10 Met. 508. [1 Op. A. G. 577.]

SECTION 1. Every city and town shall maintain, for at least thirty-two weeks in each year, a sufficient number of schools for the instruction of all the children who may legally attend a public school therein, except that in towns whose assessed valuation is less than two hundred thousand dollars, the required period may, with the consent of the board of education, be reduced to twenty-eight weeks. Such schools shall be taught by teachers of competent ability and good morals, and shall give instruction in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, the history of the United States, physiology and hygiene, and good behavior. In each of the subjects of physiology and hygiene, special instruction as to the effects of alcoholic drinks and of stimulants and narcotics on the human system shall be taught as a regular branch of study to all pupils in all schools which are supported wholly or partly by public money, except schools which are maintained solely for instruction in particular branches. Book-keeping, algebra, geometry, one or more foreign languages, the elements of the natural sciences, kindergarten training, manual training, agriculture, sewing, cooking, vocal music, physical training, civil government, ethics and such other subjects as the school committee consider expedient may be taught in the public schools.

High schools. 1789, 19, § 1. 1823, 111. 1826, 143, § 1. R. S. 23, § 5. 1850, 274. 1852, 123. 1857, 206, § 2. G. S. 38, § 2. 1868, 226. P. S. 44, § 2. 1898, 496, § 2. 16 Mass. 141. 10 Met. 508. 11 Cush. 178. 98 Mass. 589.

SECTION 2. Every city and every town containing, according to the latest census, state or national, five hundred families or householders, shall, and any other town may, maintain a high school, adequately equipped, which shall be kept by a principal and such assistants as may be needed, of competent ability and good morals, who shall give instruction in such subjects designated in the preceding section as the school committee consider expedient to be taught in the high school, and in such additional subjects as may be required for the general purpose of training and culture, as well as for the purpose of preparing pupils for admission to state normal schools, technical schools and colleges. One or more courses of study, at least four years in length, shall be maintained in each such high school and it shall be kept open for the benefit of all the inhabitants of the city or town for at least forty weeks, exclusive of vacations, in each year. A town may cause instruction to be given in a portion only of the foregoing requirements if it makes adequate provision for instruction in the others in the high school of another city or town.

SECTION 3. A town of less than five hundred families or householders in which a public high school or a public school of corresponding grade is not maintained shall pay for the tuition of any child who resides in said town and who, with the previous approval of the school committee of his town, attends the high school of another town or city. If such town neglects or refuses to pay for such tuition, it shall be liable therefor to the parent or guardian of a child who has been furnished with such tuition if the parent or guardian has paid for the same, and otherwise to the city or town furnishing the same, in an action of contract. If the school committee of a town in which a public high school or public school of corresponding grade is not maintained refuses, upon the completion by a pupil resident therein of the course of study provided by it, to approve his attendance in the high school of some other city or town which he, in the opinion of the superintendent of schools of the town in which he is resident is qualified to enter, the town shall be liable in an action of contract for his tuition. A town whose valuation does not exceed five hundred thousand dollars shall be entitled to receive from the treasury of the commonwealth all necessary amounts which have been actually expended for high school tuition under the provisions of this section, if such expenditure shall be certified under oath to the board of education by its school committee within thirty days after the date of such expenditure, and such high school shall have been approved by the board of education.

Provisions for towns having no high schools.
1891, 263.
1894, 436.
1895, 212.
1898, 496, § 3.
164 Mass. 430.
171 Mass. 501.
[1 Op. A. G. 427.]

SECTION 4. Two adjacent towns, each having less than five hundred families or householders, may vote to form one high school district for establishing a high school.

1848, 279, § 1. G. S. 38, § 3. P. S. 44, § 3. 103 Mass. 99.

High school districts in adjacent towns.

SECTION 5. The school committees of such towns shall elect one person from each of their respective boards, and the persons so elected shall form the committee for the management and control of such school, with all the powers of school committees.

Committee, how chosen. Powers.
1848, 279, § 2.
G. S. 38, § 4.
P. S. 44, § 4.

SECTION 6. Such committee shall determine the location of the school house, if one is authorized, to be built by the towns of such high school district; otherwise, it shall authorize the location of such school alternately in the two towns.

— to determine location of school house.
1848, 279, § 3.
G. S. 38, § 5.
P. S. 44, § 5.

SECTION 7. The proportion to be paid by each town for the erection of a permanent school house for such school, for its support and maintenance and for all incidental expenses attending the same, unless otherwise agreed, shall be according to its proportion of the county tax.

Expenses apportioned.
1848, 279, § 4.
G. S. 38, § 6.
P. S. 44, § 6.

SECTION 8. Two or more towns may severally vote to establish union schools for the accommodation of such contiguous portions of each as shall be mutually agreed upon. The management and control of such schools, the location of the same or of the school houses therefor, and the apportionment of the expenses of erecting such school houses and of the support and maintenance of said schools, with all expenditures incident to the same, shall be governed by the provisions of the three preceding sections.

Union schools for two or more towns.
1868, 278.
P. S. 44, §§ 10, 11.
103 Mass. 99.

Manual training.
1894, 471.
1898, 496, § 4.

SECTION 9. Every city and town containing twenty thousand inhabitants or more shall maintain the teaching of manual training as part of both its elementary and its high school system.

Industrial schools.
1872, 86.
P. S. 44, § 8.

SECTION 10. A town may establish and maintain one or more industrial schools, and the school committee shall employ the teachers, prescribe the arts, trades and occupations to be taught therein, and have the general control and management thereof; but it shall not expend for any such school an amount exceeding the appropriation specifically made therefor, nor compel a pupil to study any trade, art or occupation without the consent of his parent or guardian. Attendance upon such school shall not take the place of the attendance upon public schools required by law.

Evening schools.
1870, 248, § 2.
P. S. 44, § 7.
1883, 174, § 1.
1898, 496, § 5.

SECTION 11. Any town may, and every city or town of ten thousand or more inhabitants shall, maintain annually evening schools for the instruction of persons over fourteen years of age in orthography, reading, writing, the English language and grammar, geography, arithmetic, industrial drawing, both free hand and mechanical, the history of the United States, physiology and hygiene, and good behavior. Such other subjects may be taught in such schools as the school committee consider expedient.

Evening high schools.
1886, 236, § 1.
1898, 496, § 6.

SECTION 12. Every city of fifty thousand or more inhabitants shall maintain annually an evening high school, in which shall be taught such subjects as the school committee thereof consider expedient, if fifty or more residents, fourteen years of age or over, who are competent in the opinion of the school committee to pursue high school studies shall petition in writing for an evening high school and certify that they desire to attend such school.

Notices as to evening schools.
1887, 433, § 4.

SECTION 13. The school committee shall, two weeks next before the opening of each term of the evening schools, post in three or more public places of their city or town notice of the location of said schools, the date of the beginning of the term, the evenings of the week on which they shall be kept, such regulations as to attendance as they deem proper, and the provisions of section thirty-five of chapter one hundred and six.

Free evening lectures.
1893, 208.
1900, 166.

SECTION 14. The school committee may employ competent persons to deliver lectures on the natural sciences, history and kindred subjects, and may provide cards or pamphlets giving the titles and authors of books of reference on the subject-matter of said lectures which are contained in the local public libraries.

Vacation schools.
1899, 246.

SECTION 15. The school committee of a city or town may establish and maintain schools to be kept open during the whole or any part of the summer vacation; but attendance thereon shall not be compulsory or be considered as a part of the school attendance required by law.

Nautical schools.
1878, 159.
P. S. 44, § 9.

SECTION 16. A town may establish and maintain, upon shore or upon vessels at the election of the school committee, one or more schools for training young men or boys in nautical duties; such

schools shall be subject to the provisions of section ten, except that the school committee may excuse boys attending such nautical schools from attendance on other schools.

SECTION 17. In every public school having an average of fifty pupils, one or more female assistants shall be employed unless the town votes otherwise.

Female assistants.
1839, 56, § 1.
G. S. 38, § 9.
P. S. 44, § 14.

SECTION 18. The president, professors and tutors of the university at Cambridge and of the several colleges, all preceptors and teachers of academies and all other instructors of youth shall exert their best endeavors to impress on the minds of children and youth committed to their care and instruction the principles of piety and justice and a sacred regard for truth, love of their country, humanity and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, and those other virtues which are the ornament of human society and the basis upon which a republican constitution is founded; and they shall endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above-mentioned virtues to preserve and perfect a republican constitution and secure the blessings of liberty as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite vices.

Duty of instructors in colleges, etc.
Const., c. 5, § 2.
C. L. 136, § 3.
1789, 19, § 4.
1826, 143, § 3.
R. S. 23, § 7.
G. S. 38, § 10.
P. S. 44, § 15.
12 Allen, 127.

SECTION 19. A portion of the Bible shall be read daily in the public schools, without written note or oral comment; but a pupil whose parent or guardian informs the teacher in writing that he has conscientious scruples against it, shall not be required to read from any particular version, or to take any personal part in the reading. The school committee shall not purchase or use school books in the public schools calculated to favor the tenets of any particular religious sect.

Bible to be read in schools.
1826, 143, § 7.
R. S. 23, § 23.
1855, 410.
G. S. 38, § 27.
1862, 57.
1880, 176.
P. S. 44, § 32.
12 Allen, 127.

SECTION 20. In all the public schools the last regular session, or a portion thereof, prior to the thirtieth day of May, known as Memorial Day, shall be devoted to patriotic exercises.

Patriotic exercises.
1890, 111.

SECTION 21. No person shall, in the presence of a pupil in any public school or of a minor there present, practise vivisection, or exhibit an animal which has been vivisected. Dissection of dead animals or of any portions thereof in the public schools shall be confined to the class room and to the presence of pupils engaged in the study to be illustrated thereby and shall in no case be for the purpose of exhibition. Whoever violates the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

Vivisection and dissection regulated.
1894, 151.

SECTION 22. Towns shall raise by taxation money necessary for the support of public schools.

R. S. 23, § 9. G. S. 38, § 12. P. S. 44, § 17. 10 Met. 513.

Towns to raise money for schools.
1826, 143, § 4.

SECTION 23. A town which refuses or neglects to raise money for the support of schools as required by this chapter shall forfeit

Forfeiture for neglect to raise money, etc.

C. L. 137, 305. 1692–3, 26, § 5. 1701–2, 10, §1. 1718–19, 2. 1789, 19, § 6. 1826, 143, § 19. R. S. 23, § 60. 1859, 238.

an amount equal to twice the highest sum ever before voted for the support of schools therein. A town which refuses or neglects to choose a school committee shall forfeit not less than five hundred nor more than one thousand dollars, to the use of the county.

G. S. 38, § 14. P. S. 44, § 19. 11 Cush. 178.

Forfeiture, three-fourths of, appropriated to schools. 1789, 19, § 7. 1826, 143, § 19. R. S. 23, § 61. G. S. 38, § 15. P. S. 44, § 20.

SECTION 24. Three-fourths of such forfeiture so paid shall be paid by the county treasurer to the school committee, if any; otherwise, to the selectmen of the town from which it has been recovered, who shall appropriate it to the support of the schools of such town as if it had been regularly raised by the town for that purpose.

SCHOOL COMMITTEES.

Commencement of term. 1846, 223, § 1. G. S. 38, § 20. 1865, 134. P. S. 44, § 25.

SECTION 25. In cities in which no other provision is made, the term of office of members of the school committee shall commence at the same time as is provided for members of the city council.

Records; secretary. 1838, 105, § 3. G. S. 38, § 22. P. S. 44, § 27.

SECTION 26. The school committee shall appoint a secretary who shall keep a permanent record book, in which all its votes, orders and proceedings shall be recorded. 116 Mass. 367.

Duties of school committee. G. S. 38, § 16. P. S. 44, §§ 7, 21. 1883, 174, § 2. 1886, 236, § 2. 1898, 496, § 6.

SECTION 27. It shall have the general charge and superintendence of all the public schools, industrial schools, evening schools and evening high schools. It may determine the number of weeks in each year and the hours during which such evening schools shall be kept and may make regulations as to the attendance therein.

School committee to contract with teachers. 1838, 105, § 2. 1859, 60. G. S. 38, § 23. P. S. 44, § 28. 1891, 159. 1894, 329, § 4. 4 Cush. 599. 9 Allen, 94. 98 Mass. 587.

SECTION 28. It shall select and contract with the teachers of the public schools, shall require full and satisfactory evidence of their moral character, and shall ascertain by personal examination their qualifications for teaching and their capacity for the government of schools; or in lieu thereof, may accept the diplomas granted by the state normal schools of this commonwealth to their graduates or the certificate issued under the provisions of section fourteen of chapter thirty-nine.

Teachers to receive and file certificate; when and how paid. 1789, 19, § 9. R. S. 23, § 14. 1850, 115. 1855, 126. G. S. 38, § 24. P. S. 44, § 29. 175 Mass. 128.

SECTION 29. Every teacher shall, before he opens any public school, obtain from the school committee a certificate in duplicate of his qualifications, one of which shall be deposited with the selectmen, or, in a city, with the auditor or treasurer or with any officer who may be prescribed in the charter, before any payment is made to him on account of his services, and upon so filing such certificate, he shall be entitled to receive, on demand, his wages due at the expiration of any quarter, or term longer or shorter than a quarter, or upon the close of any single term of service, subject to the provisions of section eleven of chapter forty-three.

Compensation of school teachers from school fund. 1896, 408. 1897, 498. [1 Op. A. G. 576.]

SECTION 30. With the approval of the board of education, there may be paid from the income of the school fund to any town having a valuation of less than three hundred and fifty thousand dollars not more than two dollars a week for the actual time of service of each teacher employed in the public schools thereof who, after special examination as to exceptional ability, shall be approved by the school committee. Such amount shall be added

to the salary of the teacher; but such salary shall not be less than the average salary paid by said town to teachers in the same grade of school for the three years then last preceding, nor by such addition shall it exceed ten dollars a week.

Dismissal of teachers.
1844, 32.
G. S. 38, § 25.
P. S. 44, § 30.

SECTION 31. The school committee may dismiss any teacher from employment, and he shall receive no compensation for services rendered after such dismissal. 12 Gray, 339. 9 Allen, 94. 123 Mass. 545.

Tenure of office of teachers.
1886, 313.

SECTION 32. The school committee may elect a teacher who has served as such in the public schools of its city or town for not less than one year to serve as such at the pleasure of the committee.

School committee to visit schools.
1826, 143, § 5.
R. S. 23, §§ 15, 16.
G. S. 38, § 26.
1873, 292, § 2.
1876, 186, § 1.
P. S. 44, § 31.

SECTION 33. If there is no superintendent of schools, the school committee or one or more of its members shall, for the purpose of organizing and making a careful examination of the schools and of ascertaining that the pupils are properly supplied with books, visit all the public schools in its town on a day during the first week after the opening of each term of such schools, and on a day during the two weeks preceding the close of the same, and also, without giving previous notice thereof to the instructors, once in each month; and they shall, at such examinations, inquire into the regulation and discipline of the schools and into the habits and proficiency of the pupils.

— to select books and prescribe studies.
1826, 143, § 7.
R. S. 23, § 17.
G. S. 38, § 28.
1876, 47, § 1.
1881, 193, § 1.
P. S. 44, § 33.

SECTION 34. The school committee shall direct what books shall be used in the public schools, and shall prescribe, as far as is practicable, a course of studies and exercises to be pursued therein. Such exercises may, at the discretion of the committee, include calisthenics, gymnastics and military drill; but no special instructors shall be employed therefor except by a two-thirds vote of the committee. No pupil shall be required to take part in any military exercise if he, his parent or guardian notifies the committee that he or his parent or guardian has conscientious scruples against such exercise, or believes that it would be injurious to his health.

Text books and supplies to be provided by towns.
1855, 436.
1873, 106.
1878, 23.
P. S. 44, § 40.
1884, 103.
1894, 320, § 2.

SECTION 35. The school committee shall, at the expense of the town, purchase text books and other school supplies used in the public schools, and, subject to such regulations as to their care and custody as it may prescribe, loan them to the pupils of such schools free of charge, and, if instruction is given therein in the use of tools and in cooking, may so purchase and loan the tools, implements and materials necessary therefor.

Text books may be purchased by pupils.
1901, 472.

SECTION 36. In a city which, by vote of the board of aldermen, and in a town which, by vote of the inhabitants at an annual town meeting, accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the school committee shall make regulations with reference to the care, custody and distribution of books and supplies so loaned, and may provide for the continued use of any text books by such pupils throughout any grades. Such pupils may, if the school committee so votes, purchase from such city or town, at such time and place as the school committee designates, at not more than the cost price to such city

or town, any text books which are or are to be used by them in the public schools, and, if the committee so votes, pupils who complete two years in any public school in grades more advanced than the fourth grade may, upon graduating from the grammar school and upon application to the school committee, be permitted to acquire the permanent ownership of such three text books, used during the last year of their attendance in the school, as they may select.

Apparatus and reference books.
1885, 161, § 2.

SECTION 37. The school committee shall, at the expense of the town and in accordance with appropriations therefor previously made, procure apparatus, reference books and other means of illustration.

Change of books.
1859, 93, § 2.
G. S. 38, § 28.
1863, 126.
1867, 155.
1876, 47, § 2.

SECTION 38. A change may be made in the school books used in the public schools by a vote of two-thirds of the whole school committee at a meeting thereof, notice of such intended change having been given at a previous meeting. P. S. 44, § 34.

Compensation of committee.
1838, 105, § 4.
1854, 314.
1856, 232.
G. S. 38, §§ 34, 35.
1873, 157.
P. S. 44, §§ 42, 43.
1888, 431, § 5.
1898, 466, § 5.

SECTION 39. In towns which are subject to the provisions of sections forty-three and forty-four and which vote to authorize the school committee to receive compensation, the members of the committee shall each be paid two dollars and fifty cents a day for the time actually occupied in performing the duties of the office, and such additional compensation as the town may allow. In other towns and in cities, they shall receive no compensation.

SUPERINTENDENTS OF PUBLIC SCHOOLS.

Superintendent of public schools, appointment, duties, etc.
1854, 314.
1856, 232.
G. S. 38, § 35.
1860, 101.
1870, 117.
1873, 108.
1874, 272.
P. S. 44, § 43.
1888, 431, § 5.
1898, 466, § 5.
1900, 248, § 1.
111 Mass. 87.

SECTION 40. The school committee of a city or town which is not within an existing union for the employment of a superintendent may, and after the first day of July in the year nineteen hundred and two shall, at the expense of the city or town, employ a superintendent of schools, who, under the direction and control of the committee, shall have the care and supervision of the public schools. The compensation of the superintendent shall not be less than one dollar and fifty cents for each day of actual service, and shall be determined by the school committee. 138 Mass. 149.

District superintendent.

SECTION 41. Two or more towns may, by a vote of each, form a district for the purpose of employing a superintendent of public schools therein. 1870, 183, § 1. P. S. 44, § 44.

— manner of appointment of, salary, etc.
1870, 183, § 2.
P. S. 44, § 45.

SECTION 42. Such superintendent shall be annually appointed by a joint committee, composed of the chairman and secretary of the school committee of each of the towns in said district, who shall determine the relative amount of service to be performed by him in each town, fix his salary, apportion the amount thereof to be paid by the several towns and certify the same to each town treasurer.

SUPERINTENDENTS OF SCHOOLS FOR SMALL TOWNS.

Union of towns for employment of superintendent.
1888, 431, §§ 1, 2.

SECTION 43. The school committees of two or more towns the valuation of each of which is less than two million five hundred thousand dollars, and the aggregate number of schools in all of

which is not more than fifty nor less than twenty-five, and the school committee of four or more towns the valuation of each of which does not exceed two million five hundred thousand dollars, without reference to the minimum limit in the aggregate number of schools aforesaid, may, and after the first day of July in the year nineteen hundred and two shall, form a union for the purpose of employing a superintendent of schools. Such union shall not be dissolved for three years after the date of its formation except by a vote of a majority of the towns constituting the union, nor shall it be dissolved for the reason that the valuation of any one of the towns shall have so increased as to exceed two million five hundred thousand dollars, nor for the reason that the number of schools shall have increased beyond fifty or, in a union of less than four towns, shall have decreased below twenty-five.

1893, 200, §§ 1, 2. 1898, 466, §§ 1, 2. 1900, 248, § 2. [1 Op. A. G. 147.]

SECTION 44. The school committees of such towns shall be a joint committee, which, for the purposes of such union, shall be the agents of each town therein. The joint committee shall annually, in April, meet at a day and place agreed upon by the chairman of the committees of the several towns comprising the union, and shall organize by the choice of a chairman and secretary. They shall choose, by ballot, a superintendent of schools, determine the relative amount of service to be performed by him in each town, fix his salary, apportion the amount thereof to be paid by the several towns and certify it to each town treasurer.

Joint committee, etc. 1888, 431, § 2. 1893, 200, § 2. 1898, 466, § 2. 170 Mass. 289. 176 Mass. 473.

SECTION 45. When the chairman and secretary of such joint committee certify to the auditor of accounts under oath, that a union has been effected, that the towns, in addition to an amount equal to the average of the total amount paid, or to the amount paid for each child, by the several towns for schools during the three years then last preceding, unitedly have appropriated and raised by taxation not less than seven hundred and fifty dollars for the support of a superintendent of schools, and that a superintendent of schools has been employed for one year, a warrant shall, upon the approval of the certificate by the board of education, be drawn upon the treasurer and receiver general for the payment of twelve hundred and fifty dollars, three-fifths of which shall be paid for the salary of such superintendent, and two-fifths thereof shall be apportioned and distributed to the towns forming such union on the basis of the amount appropriated and expended for a superintendent in such towns for the preceding year and shall be paid for the salaries of teachers employed in the public schools therein.

Payment by commonwealth upon certificate. 1888, 431, § 3. 1893, 200, § 3. 1898, 466, § 3.

SECTION 46. There shall be annually appropriated by the commonwealth such amount as may be necessary to carry out the provisions of the three preceding sections. 1888, 431, § 4. 1890, 379. 1891, 272. 1893, 200, § 4. 1894, 58. 1898, 466, § 4.

Appropriations to provide towns with school superintendents.

SECTION 47. Towns whose valuation exceeds the limit fixed by section forty-three may participate in a union formed under the provisions of said section, in the same manner and subject to the same terms, conditions and benefits as towns having such limited valuation, except that the allowance by the commonwealth in aid of said

Admission of towns exceeding limit of valuation. 1898, 466, §§ 6, 7.

union, as provided in the preceding section, shall not be made to the entire union, but shall first be apportioned to the several towns upon the basis of the amount appropriated by them respectively for the support of a superintendent of schools for the preceding year, and the warrant upon the treasurer and receiver general shall then be drawn in favor of and only for the portions so assigned to those towns of the union whose valuation at the time of said union did not exceed the limit provided in section forty-three.

Effect of increase of valuation.
1898, 466, § 8.

SECTION 48. If the valuation of a town in a union formed under the provisions of section forty-three or of the preceding section shall so increase as to exceed three million five hundred thousand dollars, such increase shall have the same effect as if the valuation of said town had exceeded two million five hundred thousand dollars at the date of the formation of such union.

SCHOOL HOUSES.

School houses, towns to maintain. Penalty for neglect.
1826, 143, § 10.
1829, 116.
R. S. 23, § 32.
1859, 252, §§ 4, 5.
G. S. 38, §§ 36, 40.
1871, 145.
P. S. 44, §§ 46, 50.
145 Mass. 555.

SECTION 49. Every town shall provide and maintain a sufficient number of school houses, properly furnished and conveniently located for the accommodation of all children therein who are entitled to attend the public schools. A town which for one year refuses or neglects to comply with the requirements of this section shall forfeit not less than five hundred nor more than one thousand dollars, to be paid and applied as provided in sections twenty-three and twenty-four. The school committee, unless the town otherwise directs, shall have general charge and superintendence of the school houses therein, shall keep them in good order, and shall procure a suitable place for the schools, if there is no school house, and provide fuel and all other things necessary for the comfort of the pupils therein, at the expense of the town.

—flags to be provided for, and displayed on.

SECTION 50. The school committee of every city and town shall provide for each school house in which public schools are maintained and which is not otherwise supplied, a United States flag of silk or bunting not less than four feet in length, and suitable apparatus whereby such flag may be displayed on the school house building or grounds every school day when the weather permits and on the inside of the school house on other school days.

—location of.
1826, 143, § 10.
1829, 116.
R. S. 23, §§ 28, 32.
1848, 237.
1859, 252, § 4.

SECTION 51. A town may, at a meeting called for the purpose, determine the location of its school houses, and adopt all necessary measures to purchase and procure land therefor, as provided in sections forty-seven, forty-eight and forty-nine of chapter twenty-five.

G. S. 38, § 37. P. S. 44, § 47. 109 Mass. 206. 117 Mass. 393. 127 Mass. 4. 137 Mass. 235.

GENERAL PROVISIONS.

School funds of corporations not affected.
1826, 143, § 18.
R. S. 23, § 59.
G. S. 38, § 13.

SECTION 52. The provisions of this chapter shall not affect the right of any corporation established in a town to manage any estate or funds given or obtained for the purpose of supporting schools therein, or in any wise affect such estate or funds. P. S. 44, § 18.

Provisions of chapter to apply to cities, except, etc.
G. S. 38, § 41.

SECTION 53. Except as otherwise provided in their respective charters, the provisions of this chapter, so far as applicable, shall apply to cities. P. S. 44, § 51.

CHAPTER 43.

OF SCHOOL REGISTERS AND RETURNS.

SECTION 1. The secretary of the board of education shall send forms for the school census required by section three, the school registers, forms for the returns to be made by school committees, the annual report of the board and his own annual report, as soon as they are ready for distribution, to the secretary of the school committee of each city and town, who shall, on receipt thereof, deliver them to the several persons charged with the duties in connection therewith, and send to the secretary of the board of education a list of the private schools in the city or town and the names of their principals. The board of education may annually expend not more than twelve hundred dollars for the printing and distribution of said school registers and forms for returns of school committees.

Secretary of board of education to forward forms, etc.
1845, 100.
1849, 65, §§ 1, 2.
1850, 41.
G. S. 34, § 7; 40, § 1.
P. S. 41, § 7; 46, § 1.
1898, 496, § 14.
1899, 111.
1900, 187.

SECTION 2. The secretary of every school committee who does not receive blank forms of inquiry for school returns, on or before the fifth day of April, shall forthwith notify the secretary of the board of education thereof, who shall thereupon transmit them to him.

— to be notified of non-delivery.
1846, 223, § 3.
G. S. 40, § 2.
P. S. 46, § 2.
1898, 496, § 15.

SECTION 3. The school committee of each city and town shall annually ascertain and record the names, ages and such other information as may be required by the board of education, of all children between five and fifteen years of age, and of all minors over fourteen years of age who cannot read at sight and write legibly simple sentences in the English language, residing in its city or town on the first day of September, and such record shall be completed on or before the fifteenth day of November. Whoever, having under his control a minor over five years of age, withholds information sought by a school committee or its agents under the provisions of this section or makes a false statement relative thereto, shall be punished by a fine of not more than fifty dollars.

School census.
1846, 223, § 2.
1849, 117, § 1.
1855, 15.
G. S. 40, § 3.
1874, 303, § 1.
1879, 21.
P. S. 46, §§ 3, 4.
1898, 496, § 16.
1901, 289.

SECTION 4. The chairman and the secretary of each school committee shall annually on or before the thirtieth day of April transmit to the secretary of the board of education a certificate filled out, signed and sworn to by them as follows: —

School committee to certify number of children, also amount raised for support of schools.
1846, 223, § 2.
1849, 117, § 1.
1855, 23.
G. S. 40, § 4.
1865, 142, § 2.
1874, 303, § 2.
P. S. 46, § 5.
1896, 179.
1898, 496, § 17.
1900, 175.

We, the chairman and the secretary of the school committee of , hereby certify:

I. That on the first day of September last preceding the date of this certificate, there resided in said town (or city) according to the school census required by law to be taken for that date, the number of persons between the ages of five and fifteen years, and the number of persons between the ages of seven and fourteen years.

II. That the number of pupils in the average membership of the public schools of said town (or city) for the school year last preceding the aforesaid first day of September, as determined by the rules of the state register furnished to said schools, was

III. That said town (or city) raised by taxation and expended during the fiscal year last preceding the date of this certificate the sum of dollars for the support of the public schools, including the wages of teachers, the transportation of school children, fuel, the care of fires, school rooms and school premises, supervision, text books and supplies, and school sundries or incidentals, but excluding repairs, alterations and construction of school houses and contributions for the support of public schools which may be received from the commonwealth or from other sources than local taxation.

IV. That said town (or city) maintained during the school year aforesaid for a period of not less than thirty-two weeks, or twenty-eight weeks if such reduction has been allowed under the provisions of section one of chapter forty-two of the Revised Laws, each of the schools required to be kept by said section.

V. And that said town (or city) maintained during said year a high school [ ] as required by section two of said chapter, for a period of months days.

Chairman.
Secretary.

ss.

On this day of A.D. 19 , personally appeared the above-named chairman and secretary of the school committee of , and made oath that the above certificate by them subscribed is true to the best of their knowledge and belief.

Before me,

Justice of the Peace.

Registers and returns.
1826, 143, § 8.
R. S. 23, §§ 63, 64.
1837, 227.
1838, 105, § 6.
1846, 223, § 3.
1850, 179.
G. S. 40, § 5.
1865, 142, § 3.
P. S. 46, §§ 6, 7.
1898, 496, § 18.
3 Cush. 549.

SECTION 5. School committees shall cause the school registers to be faithfully kept in all the public schools, and shall annually, on or before the last day of April, make returns on the aforesaid forms of inquiry to the secretary of the board of education; and school committees of towns shall also specify therein the purposes to which the money received by their respective towns from the income of the school fund has been appropriated. In such returns, twenty days, or forty half days of actual session, shall be counted as one month.

Report of committee.
1838, 105, § 1.
1846, 223, § 4.
1859, 57.
G. S. 40, § 6.
P. S. 46, § 8.
11 Gray, 340.
101 Mass. 142.

SECTION 6. They shall annually make a detailed report of the condition of the several public schools, which shall contain any statements or suggestions relative to the schools which the committee consider necessary or proper. They shall cause said report to be printed, for the use of the inhabitants, in octavo, pamphlet form, of the size of the annual reports of the board of education, and transmit two copies thereof to the secretary of said board on or before the last day of April, and shall deposit one copy in the office of the city or town clerk.

— when not made.
1853, 93, § 1.
G. S. 40, § 7.
P. S. 46, § 9.

SECTION 7. If a school committee fails, within the prescribed time, to make either the returns or the report required of it by law, the secretary of the board of education shall forthwith notify it of such failure, and it shall immediately cause the same to be transmitted to him.

— when irregular, etc.
1855, 93, § 2.
G. S. 40, § 8.
P. S. 46, § 10.
1898, 496, § 20.

SECTION 8. If a return is found to be irregular or incorrect, the secretary of the board of education shall forthwith return it, with a statement of all deficiencies therein, to the school committee for correction, and it shall promptly correct and return it.

— penalty for neglect to make.

SECTION 9. A town whose report or returns do not reach the office of the secretary of the board of education on or before the

fifteenth day of May shall forfeit ten per cent of the income of the school fund to which it would otherwise have been entitled. If such report or returns do not reach said office before the first day of June, the town's share of said income shall be retained by the treasurer and receiver general, and shall be added to the principal of the school fund. A town which is not entitled to a portion of the school fund, and a city, whose report or returns do not reach said office on or before the first day of June, shall forfeit to the school fund two hundred dollars.

1855, 93, § 3. 1859, 238. G. S. 40, § 9. P. S. 46, § 11. 1898, 496, § 21.

SECTION 10. A town which has forfeited any part of its portion of the income of the school fund through the failure of the school committee to perform its duties relative to the school report and school returns may withhold the compensation of the committee.

Penalty on committee for neglect to report. 1847, 183, § 2. 1848, 173. G. S. 40, § 12. P. S. 46, § 14.

SECTION 11. The several school teachers shall faithfully keep the registers of attendance daily, and make due return thereof to the school committee or to such person as the committee may designate. No teacher of a public school shall receive payment for services for the two weeks preceding the close of any term until the register, properly filled up and completed, is so returned. All registers shall be kept at the schools, and at all times during school hours shall be open to the inspection of the school committee, the superintendent of schools, the truant officers and the secretary and agents of the board of education. In reckoning the average membership and the percentage of attendance in the schools, no pupil's name shall be omitted in counting the number of persons belonging to the school and the number of absences of such persons until it is known that such pupil has withdrawn from the school without intention of returning or, in the absence of such knowledge, until ten consecutive days of absence have been recorded; but the foregoing provision for computing the average membership and the percentage of attendance shall not affect proceedings against habitual truants, absentees or school offenders, or other persons, under the provisions of section one of chapter forty-four and sections three, four and five of chapter forty-six. A pupil who is not present during at least half of a session shall be marked and counted as absent for that session.

Registers. Teacher not to draw pay until return of register. 1849, 209. G. S. 40, § 13. P. S. 46, § 15. 1891, 99. 1898, 496, § 19.

CHAPTER 44.

OF SCHOOL ATTENDANCE.

SECTION 1. Every child between seven and fourteen years of age shall attend some public day school in the city or town in which he resides during the entire time the public day schools are in session, subject to such exceptions as to children, places of attendance and schools as are provided for in section three of chapter forty-two and sections three, five and six of this chapter. The superintendent of schools or, if there is no superintendent of schools, the school committee, or teachers acting under authority of said superintendent or committee, may excuse cases of necessary absence.

School attendance regulated. 1852, 240, §§ 1, 2, 4. G. S. 41, § 1. 1873, 279, § 1. 1874, 233, § 1. P. S. 47, § 1. 1889, 464, § 1. 1890, 384. 1891, 361. 1894, 188; 498, § 1. 1898, 496, §§ 12, 31. 139 Mass. 374.

148 Mass. 623.
159 Mass. 372.

The attendance of a child upon a public day school shall not be required if he has attended for a like period of time a private day school approved by the school committee of such city or town in accordance with the provisions of the following section, or if he has been otherwise instructed for a like period of time in the branches of learning required by law to be taught in the public schools, or if he has already acquired such branches of learning, or if his physical or mental condition is such as to render such attendance inexpedient or impracticable. Every person having under his control a child as described in this section shall cause him to attend school as herein required; and if he fails for five day sessions or ten half day sessions within any period of six months while under such control to cause such child, whose physical or mental condition is not such as to render his attendance at school harmful or impracticable, so to attend school, he shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars. Whoever induces or attempts to induce a child to absent himself unlawfully from school, or employs or harbors a child who, while school is in session, is absent unlawfully from school shall be punished by a fine of not more than fifty dollars.

School attendance regulated; penalty.

Approval of private schools.
1873, 279, § 1.
1878, 171.
P. S. 47, § 2.
1889, 464, § 2.
1894, 498, § 2.
148 Mass. 623.
159 Mass. 374.

SECTION 2. For the purposes of the preceding section, school committees shall approve a private school only when the instruction in all the studies required by law is in the English language, and when they are satisfied that such instruction equals in thoroughness and efficiency and in the progress made therein the instruction in the public schools in the same city or town; but they shall not refuse to approve a private school on account of the religious teaching therein.

Where children may attend.
1849, 117, § 4.
1855, 256, § 1.
1857, 132.
G. S. 41, §§ 3, 9.
P. S. 47, §§ 4, 10.
1894, 498, §§ 4, 11.
1898, 496, § 7.
12 Allen, 127.
139 Mass. 374.
165 Mass. 460.

SECTION 3. Every child shall have the right to attend the public schools in the city or town in which his parent or guardian has a legal residence or in which the child himself actually resides, subject to such reasonable regulations as to the numbers and qualifications of pupils to be admitted to the respective schools and as to other school matters, as the school committee shall from time to time prescribe. No child shall be excluded from a public school of any city or town on account of race, color or religion.

Attendance at schools in places other than residence of parents or guardians regulated.
1857, 132.
G. S. 41, § 7.
1876, 186, § 2.
P. S. 47, § 8.
1894, 498, § 8.
1896, 382.
1898, 496, § 8.
163 Mass. 104.
164 Mass. 430.

SECTION 4. If a child resides in a city or town other than that of the legal residence of his parent or guardian for the sole purpose of there attending school, his parent or guardian shall be liable to said city or town for his tuition while attending school in said city or town to an amount equal to the average expense of such school for each pupil during the preceding year, for a period equal to the time during which the child so attends, unless the city or town in which the parent or guardian resides is required by section three of chapter forty-two to pay for said tuition. For the tuition in the public schools in any city or town of a child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Lyman and industrial schools, or kept under the control of either of said boards in said city or town, the commonwealth shall

pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under the control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town, fifty cents for each week of five days, or major part thereof, of attendance of every such child in the public schools. For the transportation to and from a public school of any child whose tuition is payable by the commonwealth or by the city of Boston under the provisions of this section, the commonwealth or the city of Boston, as the case may be, shall pay to the city or town furnishing such transportation, for each week of five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the commonwealth and with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter. The money received by said cities and towns under the provisions of this section shall be applied to the support of schools. For the tuition in the public schools in any town of less than ten thousand inhabitants of any child between the ages of five and fifteen years not theretofore resident in such town, who is an inmate of an institution containing more than six inmates, said town may recover from said institution the extra school expense incurred, as may be determined jointly by the school committee of said town and the trustees or managers of said institution, or, in case of disagreement between said school committee and said trustees or managers, as may be decreed by the probate court; but no demand shall be made upon said trustees or managers without a vote of the town instructing the school committee to that effect.

Attendance outside place of residence. 1857, 132. G. S. 41, § 7. 1876, 186, § 2. P. S. 47, § 8. 1894, 498, § 8.

SECTION 5. Any child, with the consent of the school committee of the city or town in which he resides, may attend, at the expense of said city or town, the public schools of another city or town, upon such terms as may be satisfactory to the school committees of the cities or towns in interest. 1898, 496, § 10.

Vaccination of children.

SECTION 6. A child who has not been vaccinated shall not be admitted to a public school except upon presentation of a certificate signed by a regular practising physician that he is not a fit subject for vaccination. A child who is a member of a household in which a person is ill with smallpox, diphtheria, scarlet fever or measles, or of a household exposed to such contagion from another household as aforesaid, shall not attend any public school during such illness or until the teacher of the school has been furnished with a certificate from the board of health of the city or town, or from the attending physician of such person, stating that, in a case of smallpox, diphtheria or scarlet fever at least two weeks, and in a case of measles, at least three days, have elapsed since the recovery, removal or death of such person, and that danger of conveying such disease by such child has passed.

Exclusion of pupils in household having a contagious disease. 1855, 414, § 2. G. S. 41, § 8. P. S. 47, § 9. 1884, 64. 1885, 198. 1894, 498, §§ 9, 10. 1898, 496, § 11.

Exclusion from school, action for, when.

SECTION 7. The parent, guardian or custodian of a child who has been refused admission to or excluded from the public schools

1845, 214. 1855, 256, §§ 2–4. G. S. 41, §§ 10–12. P. S. 47, §§ 11–13. 1894, 498, §§ 12–14. 1898, 496, § 9. 8 Cush. 160. 7 Gray, 245. 111 Mass. 499. 116 Mass. 365. 133 Mass. 103.

shall on application therefor be furnished by the school committee with a statement in writing of the reasons for the exclusion. After a statement has been so furnished a child who has been so refused admission to or excluded from said schools may recover damages from the city or town in an action of tort for unlawful exclusion, and may examine any member of the school committee or any other officer of the defendant city or town, upon interrogatories, as if he were a party to the action. 157 Mass. 561. 165 Mass. 460.

Pupil not to be excluded without hearing.

SECTION 8. A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him an opportunity to be heard. 165 Mass. 460.

CHAPTER 45.

OF THE NAUTICAL TRAINING SCHOOL.

Commissioners of Massachusetts nautical training school. 1891, 402, § 1.

SECTION 1. There shall be a board of commissioners of the Massachusetts nautical training school consisting of three citizens of the commonwealth, one of whom shall annually, before the first day of July, be appointed by the governor, with the advice and consent of the council, for a term of three years from said first day of July.

— to serve without compensation. 1891, 402, § 2.

SECTION 2. Said commissioners shall serve without compensation, but they shall be reimbursed by the commonwealth for all expenses actually incurred by them in the performance of their official duties.

— to provide and maintain a nautical training school. 1891, 402, § 3.

SECTION 3. They shall provide and maintain a nautical training school for the instruction and training of pupils in the science and practice of navigation, shall provide accommodations for the school on board a proper vessel, purchase and provide books, stationery, apparatus and supplies needed in the work of the school, appoint and remove instructors and other necessary employees, determine their number and compensation, fix the terms and conditions upon which pupils shall be received and instructed in the school and be discharged or dismissed therefrom, establish all regulations necessary for its proper management and shall from time to time provide for cruises in or from the harbor of Boston.

— may receive vessels from the United States. 1891, 402, § 4.

SECTION 4. They may receive from the United States government, and use for the accommodation of the school, such vessels as the secretary of the navy may detail. Res. 1891, 4.

Expense of maintaining the school. 1891, 402, § 5. 1893, 124.

SECTION 5. They may annually expend not more than fifty thousand dollars which shall be paid by the commonwealth; and they shall annually submit an estimate of the expense required in making cruises in or from the harbor of Boston, and the amount of said estimate, after approval by the governor and council and subject to the provisions of chapter six, shall be advanced to the commanding officer of the vessel detailed therefor, who shall give a bond in the sum of ten thousand dollars, with sureties approved by

the governor and council, for its proper disbursement. Said advance shall not exceed ten thousand dollars for six months, and shall be accounted for by properly approved vouchers within thirty days after the termination of said cruises.

SECTION 6. They shall annually, in January, report to the general court a detailed statement of all moneys appropriated and expended during the preceding year for the nautical training school, stating the results of the work during such year and making any necessary recommendations. Annual report. 1891, 402, § 6.

CHAPTER 46.

OF TRUANTS AND TRUANT SCHOOLS.

SECTION 1. The county commissioners of each county, except the counties of Barnstable, Berkshire, Dukes County and Nantucket, shall maintain either separately or jointly with the commissioners of other counties as hereinafter provided, in a suitable place, not at or near a penal institution, a truant school for the instruction and training of children committed thereto as habitual truants, absentees or school offenders. The county commissioners of two or more counties may, at the expense of said counties, establish and maintain a union truant school which shall be organized and controlled by the chairmen of the county commissioners of said counties. The chairmen of the respective boards of county commissioners of the counties of Norfolk, Bristol and Plymouth, having the management of the Norfolk, Bristol and Plymouth union truant school, shall each be paid the sum of one hundred dollars annually by said counties, respectively. The county commissioners of the counties of Barnstable, Berkshire, Dukes County and Nantucket shall assign a truant school established by law as the place for the instruction and training of children committed within their respective counties as habitual truants, absentees or school offenders, and shall pay for their support in said school such reasonable sum as the county commissioners having control of said school may determine. For the purposes of this chapter the parental school of the city of Boston shall be deemed the county truant school of the county of Suffolk, and commitments from the towns of Revere and Winthrop and the city of Chelsea shall be to the truant school for the county of Middlesex. The city or town from which an habitual truant, absentee or school offender is committed to a county truant school shall pay to the county within which it is located one dollar a week towards his support; but the towns of Revere and Winthrop and the city of Chelsea shall pay to the county of Middlesex, for the support of each child committed to the truant school of said county, two dollars and fifty cents a week, and such additional sums for each child as shall cover the actual cost of maintenance. Truant schools. 1873, 262, § 5. 1881, 144. P. S. 48, § 14. 1884, 155. 1886, 282. 1890, 309. 1894, 498, § 16. 1895, 216. 1896, 360. 1898, 496, § 22. 1901, 299.

SECTION 2. County truant schools shall be subject to visitation by the board of education and by the state board of charity, and said boards shall report thereon annually to the general court. —visitation of. 1898, 496, § 23.

Habitual truants.
1873, 262, § 3.
P. S. 48, § 12.
1889, 249, § 2.
1894, 498, § 21.
1898, 496, § 24.

SECTION 3. A child between seven and fourteen years of age who wilfully and habitually absents himself from school contrary to the provisions of section one of chapter forty-four shall be deemed to be an habitual truant, and, upon complaint by a truant officer and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven of this chapter.

Habitual absentees.
1898, 496, § 25.

SECTION 4. A child between seven and sixteen years of age who may be found wandering about in the streets or public places of any city or town, having no lawful occupation, habitually not attending school, and growing up in idleness and ignorance, shall be deemed to be an habitual absentee, and, upon complaint by a truant officer or any other person and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years or to the Lyman school for boys, and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven.

Habitual school offenders.
1889, 249, § 2.
1894, 498, § 21.
1898, 496, § 26.

SECTION 5. A child under fourteen years of age who persistently violates the reasonable regulations of the school which he attends, or otherwise persistently misbehaves therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed to be an habitual school offender, and, upon complaint by a truant officer and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years or to the Lyman school for boys, and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven.

Support of inmates of truant schools.
1898, 496, § 27.

SECTION 6. The court or magistrate by whom a child has been committed to a county truant school may make an order relative to the payment by his parents to the county of the cost of his support while in said school, and may from time to time revise and alter such order or make a new order as the circumstances of the parents may justify.

Placing truants on probation.
1898, 496, § 28.

SECTION 7. A court or magistrate by whom a child has been convicted of an offence under the provisions of this chapter may place such child on probation under the oversight of a truant officer of the city or town in which the child resides, or of a probation officer of said court, for such period and upon such conditions as said court or magistrate may deem best; and if, within such period, the child violates the conditions of his probation, such truant officer or probation officer may, without warrant or other process, take the child before the court, and the court may thereupon sentence him or may make any other lawful disposition of the case.

Permits to be at liberty.
1896, 514.
1898, 496, § 29; 580, § 1.

SECTION 8. County commissioners, if they think it will be for the best interest of any child who has been committed to a county truant school under their control, after notice and an opportunity to be heard has been given to the superintendent of schools or, if there is no superintendent, to the school committee of the city or town from which such child was committed to said school, may

permit him to be at liberty upon such conditions as said commissioners may deem best; or, with the approval of the court which imposed the sentence, they may discharge him from said school; and upon such parole or discharge they shall make an entry upon their records of the name of such child, the date of parole or discharge and the reason therefor; and a copy of such record shall be transmitted to the court or magistrate by whom such child was committed and to the school committee of the city or town from which he was committed. If such child, in the opinion of said commissioners, violates the conditions of his parole at any time previous to the expiration of the term for which he was committed to said school, such parole may be revoked. If a superintendent of schools or a school committee furnishes evidence satisfactory to said commissioners of the violation by a child of the conditions of his parole, said commissioners shall revoke such parole, and may thereupon issue an order directed to the truant or police officers of any city or town to arrest such child wherever found and return him to said school. Such officer shall arrest such child and return him to said school, where he shall be held, subject to the provisions of this chapter, for the residue of the term of the original sentence. The expense of such arrest and return, so far as approved by the commissioners, shall be paid by the county or counties maintaining said school. Releases from the parental school of the city of Boston shall be governed by the provisions of chapter five hundred and fourteen of the acts of the year eighteen hundred and ninety-six, and shall be made by the trustees for children who shall have and exercise the powers given by said chapter to the institutions commissioner of said city.

Temporary release from truant school. 1899, 201.

SECTION 9. If a near relation of a child who is confined on a sentence as an habitual truant, habitual absentee or habitual school offender dies or is seriously ill, a court or trial justice which has jurisdiction of such offences may order such child to be released for a specified time, either with or without the custody of the superintendent or other officer, and may revoke, extend or otherwise modify such order. The expenses incurred in serving such order shall be approved and paid in the same manner as other expenses of the institution in which the child is confined.

Disposition of vicious inmates. 1898, 496, § 30.

SECTION 10. An inmate of a county truant school or of the parental school of the city of Boston who persistently violates the reasonable regulations thereof, or is guilty of indecent or immoral conduct, or otherwise grossly misbehaves, so as to render himself an unfit subject for retention therein, may, upon complaint by the officer in control of said school and conviction thereof, if under fifteen years of age, be committed to the Lyman school for boys; if over fifteen years of age, to the Massachusetts reformatory.

Jurisdiction. 1873, 262, § 4. P. S. 48, § 13. 1890, 309. 1894, 498, § 15. 1898, 496, § 32.

SECTION 11. Police, district and municipal courts and trial justices shall have jurisdiction of offences arising under the provisions of section one of chapter forty-four and under the provisions of this chapter. A summons or warrant issued by such court or justice may be served, at the discretion of the court or magistrate, by a truant officer or by any officer qualified to serve criminal

process. Upon complaint against a child for any such offence the parents, guardian or custodian of the child shall be notified as is required by section seventeen of chapter eighty-six. A child against whom complaint as an habitual absentee is brought by any other person than a truant officer shall not be committed until notice and an opportunity to be heard have been given to the state board of charity.

Truant officers.
1873, 262, § 2.
1874, 233, § 2.
P. S. 48, § 11.
1894, 498, § 20.
1898, 496, § 33.

SECTION 12. The school committee of every city and town shall appoint and fix the compensation of one or more truant officers, and shall make regulations for their government. Truant officers shall not receive fees for their services. The school committees of two or more cities or towns may employ the same truant officers.

—duties of.
1873, 262, § 2.
P. S. 48, § 11.
1889, 422.
1894, 498, § 23.
1898, 496, § 34.

SECTION 13. Truant officers shall inquire into all cases arising under the provisions of sections one and six of chapter forty-four and sections three, four and five of this chapter, and may make complaints and serve legal processes issued under the provisions of this chapter. They shall have the oversight of children placed on probation under the provisions of section seven. A truant officer may apprehend and take to school, without a warrant, any truant or absentee found wandering about in the streets or public places thereof.

TITLE XI.

OF WAYS, BRIDGES, PUBLIC PLACES, FERRIES, SEWERS, DRAINS AND SIDEWALKS, AND OF LAND DAMAGES AND BETTERMENTS.

CHAPTER 47. — Of State Highways.
CHAPTER 48. — Of the Laying out and Discontinuance of Ways and of Damages caused by the Taking of Land for Public Uses.
CHAPTER 49. — Of Sewers, Drains and Sidewalks.
CHAPTER 50. — Of Betterments and other Assessments on Account of the Cost of Public Improvements.
CHAPTER 51. — Of the Repair of Ways and Bridges.
CHAPTER 52. — Of Regulations and By-Laws relative to Ways and Bridges.
CHAPTER 53. — Of the Boundaries of Highways and other Public Places and Encroachments thereon.
CHAPTER 54. — Of the Law of the Road.
CHAPTER 55. — Of Ferries and Canals.

CHAPTER 47.

OF STATE HIGHWAYS.

Massachusetts highway commission. 1893, 476, §§ 1, 3. 1898, 528. 1900, 474, § 1.

SECTION 1. There shall be a Massachusetts highway commission consisting of three persons, one of whom shall be annually appointed by the governor, with the advice and consent of the council, for a term of three years. The chairman shall be designated by the governor and shall receive an annual salary of thirty-five hundred dollars. Each of the other members shall receive an annual salary of twenty-five hundred dollars. Each member of the commission shall be allowed his travelling expenses, and shall devote his time to the business of the commission. The commission may expend annually for a secretary, clerk hire, engineers and for incidental expenses such amount as the general court may appropriate. It shall be provided with an office in the state house or some other suitable place in the city of Boston, in which the records of its office, maps, plans and statistics collected and compiled under its direction shall be kept.

—duties, etc. 1893, 476, § 2.

SECTION 2. It shall compile statistics relative to the public ways of counties, cities and towns, and make such investigations relative

thereto as it shall consider expedient. It may be consulted by, and shall, without charge, advise officers of counties, cities or towns having the care of and authority over public ways, as to their construction, maintenance, alteration or repair; but such advice shall not impair the legal duties and obligations of any county, city or town. It shall prepare maps of the commonwealth on which shall be shown county, city and town boundaries, the public ways and the state highways, with their names if practicable. It shall collect and collate information relative to the geological formation of the commonwealth so far as it relates to the materials suitable for road building, the location of which it shall, so far as practicable, designate on said maps, which shall be open to the inspection of officers of counties, cities and towns having the care of and authority over public ways. It shall give public notice of and hold at least one public meeting annually in each county for the open discussion of questions relative to the public ways.

Massachusetts highway commission, annual report, etc. 1893, 476, §§ 3, 5.

SECTION 3. It shall make an annual report to the general court of its doings and the expenditures of its office, with such statements relative to the construction and maintenance of public ways, such recommendations as to the general policy of the commonwealth relative thereto as it considers appropriate, and an estimate of the amount necessary to carry out the provisions of this chapter for the year beginning with the first day of March following. The report shall be transmitted to the secretary of the commonwealth on or before the first Wednesday in January.

Officers to furnish commissioners with information. 1893, 476, § 4.

SECTION 4. County commissioners and city and town officers who have the care of and authority over public ways and bridges shall, on request, furnish the commission with any information required by it concerning such ways and bridges.

Petition for state highway. 1893, 476, § 6. 1894, 497, § 1. 1898, 476. 173 Mass. 403. [1 Op. A. G. 537.]

SECTION 5. If the county commissioners of a county, the mayor and aldermen of a city or the selectmen of a town adjudge that the public necessity and convenience require that the commonwealth take charge of a new or an existing way as a highway, in whole or in part, in their county, city or town, they may apply by a petition in writing to the commission, requesting that said way be taken charge of by the commonwealth.

Location of state highway. 1893, 476, § 6. 1894, 497, § 2. 1896, 345, § 3. 1897, 355, § 1. [1 Op. A. G. 284.]

SECTION 6. If said commission determines that public necessity and convenience require that such way should be laid out or be taken charge of by the commonwealth, it shall file a certified copy of a plan thereof, a copy of the petition therefor and a certificate that they have laid out and taken charge of said highway in accordance with said plan, in the office of the county commissioners for the county in which the way is situated, and shall file a copy of the plan and location of the portion lying in each city or town in the office of the clerk of said city or town, and thereafter it shall be a state highway, and shall be constructed and kept in good repair and condition by the commission, at the expense of the commonwealth.

SECTION 7. Said commission may, with the concurrence of the mayor and aldermen of a city or the selectmen of a town, alter the location of a state highway in such city or town by filing a plan thereof and a certificate that said commission has laid out and taken charge of said state highway, as altered in accordance with said plan, in the office of the county commissioners for the county in which said highway is situated, and by filing a copy of the plan or location as altered in the office of the clerk of such city or town.

Alteration of location. 1900, 475, § 1.

SECTION 8. Said commission may, with the concurrence of the mayor and aldermen of a city or the selectmen of a town, abandon any land or part thereof, or rights in land which have been taken or acquired by it in such city or town by executing, acknowledging and recording a deed thereof accompanied by a plan of survey which shall be recorded therewith. Said abandonment shall revest the title to the land or rights abandoned in the persons, their heirs and assigns, in whom it was vested at the time of the taking, and may be pleaded in reduction of damages in any suit therefor on account of such taking.

Abandonment of location. 1900, 475, § 2.

SECTION 9. The damages sustained by any person whose property has been taken for or has been injured by the construction or alteration of such highway shall be determined by said commission and shall be paid by the commonwealth. A person who is aggrieved by such determination may, upon a petition filed in the superior court for the county in which the land lies within one year after the completion of said highway or alteration thereof, have said damages determined by a jury in the same manner as damages which have been sustained by the taking of land for other highways. The mayor of a city, if so authorized by a vote of the board of aldermen, or the selectmen of a town, if so authorized by a vote of the town, may stipulate in writing in behalf of the city or town to indemnify and save harmless the commonwealth against all claims and demands for damages which may be sustained by any person whose property has been taken for, or has been injured by the construction of, any highway which the Massachusetts highway commission proposes to lay out and construct as a state highway, and thereupon such town or city shall be liable ultimately for the amount of any verdict against the commonwealth for such damages, and for costs, the amount thereof to be recoverable by the commonwealth in an action of contract.

Damages. 1894, 497, § 3. 1900, 475, § 1. 1901, 345. 172 Mass. 223.

SECTION 10. Said commission shall, when about to construct a highway, give to each city and town in which it lies a certified copy of the plans and specifications therefor and a notice that said commission is ready for its construction; and said city or town may, without advertisement, contract with said commission for the construction of so much of such highway as lies within its limits, in accordance with the plans and specifications and under its supervision and subject to its approval, at a price agreed upon between said commission and said city or town. If, within ten days, said city or town does not elect so to contract, said commission shall advertise in two or more newspapers published in each county in which the highway lies, and in three or more daily newspapers pub-

Construction of state highways by cities and towns. 1893, 476, §§ 9, 10. 1894, 497, § 4. 1897, 355, § 2. 1900, 404. [1 Op. A. G. 370, 397.]

lished in Boston, for sealed proposals for the construction of such highway, stating the time and place for opening said proposals, and reserving the right to reject any and all proposals. Said commission may reject any and all proposals or, if a proposal is satisfactory, it shall, with the approval of the governor and council, make a contract in writing on behalf of the commonwealth for such construction. After they have been accepted or rejected they shall be kept by the commission, and shall be open to public inspection. The commission may, in the same manner and under the same conditions, contract with a city or town or, if a city or town shall not elect so to contract, with a person for the grading of a state highway or for furnishing materials or any other element in its construction. The construction of all state highways shall be under the supervision and subject to the approval of the commission and in accordance with plans and specifications furnished by it, shall be fairly apportioned by the commission among the different counties, and not more than ten miles of state highway shall be constructed, on petition as aforesaid, in any one county in any one year, without the previous written approval of the governor and council.

Maintenance of state highways. 1894, 497, §§ 2, 7. 1897, 355, § 1.

SECTION 11. Said commission shall keep all state highways reasonably clear of brush, shall cause suitable shade trees to be planted thereon if practicable, and may establish and maintain watering troughs upon said highways. No opening shall be made in any such highway nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or renewed, except in accordance with a permit from the commission, which shall exercise complete and permanent control over such highways.

Reimbursement of commonwealth. 1894, 497, § 5.

SECTION 12. One-fourth of any money which may be expended under the provisions of the seven preceding sections for a highway in any county, with interest thereon at the rate of three per cent per annum, shall be repaid by said county to the commonwealth in such instalments and at such times within six years thereafter as said commission, with the approval of the auditor of accounts, having regard to the financial condition of the county, shall determine. The treasurer and receiver general shall apply the money so repaid to the appropriation to be expended by said commission.

Commonwealth primarily liable for defective highways. 1893, 476, § 13. 1894, 497, § 6. 1896, 345, § 1. 1900, 253, §§ 1, 2. [1 Op. A. G. 284.]

SECTION 13. The commonwealth shall be liable for injuries sustained by persons while travelling on state highways, in the manner and subject to the limitations, conditions and restrictions provided in sections eighteen, twenty and twenty-one of chapter fifty-one, except that notice of the injury shall be given to a member of the commission or to its secretary. The commonwealth shall not be liable for an injury which may be sustained upon the sidewalk of a state highway or during the construction of such highway. The amount which may be recovered for any such injury shall not exceed one-fifth of one per cent of the state valuation last preceding the commencement of the action of the city or town in which the injury was received, nor shall it exceed four thousand dollars.

SECTION 14. A city or town in which a state highway lies shall at its own expense keep such highway sufficiently clear of snow and ice to be reasonably safe for travel. It shall have police jurisdiction over all state highways within its limits, and shall forthwith give notice in writing to the commission or its employees of any defect or want of repair in such highways; but it may make temporary necessary repairs of a state highway without the approval of the commission.

State highway to be kept clear of snow and ice. 1893, 476, § 14. 1894, 497, § 6. 1896, 345, § 2. 1900, 253, § 2.

SECTION 15. Said commission shall contract with the city or town in which such state highway lies or with a private person for the maintenance and repair thereof in accordance with the regulations of said commission, and subject to their supervision and approval. Such contracts may be made without previous advertisement.

—maintenance and repair of. 1893, 476, § 10.

SECTION 16. Said commission shall annually, in January, certify to the treasurer and receiver general the amount of the expenditures for repair of state highways in each city and town during the preceding year. The amount of such expenditures, not exceeding fifty dollars a mile, shall be made a part of the state tax for such cities and towns respectively, and be credited to the appropriation for state highways to be used again by the commission. If a city or town elects to make such repairs upon terms and prices agreed upon by it and said commission and under the direction of said commission, the commission shall repay to it, from the annual appropriation for state highways, the amount expended therefor in excess of fifty dollars a mile.

—expense of repairs, payment and reimbursement of. 1900, 432, § 1.

SECTION 17. The commission shall expend in such towns, the valuation of which does not exceed one million dollars and in which no state highway has been built, and in such amounts, as it determines, five per cent of the amount appropriated each year for the construction and repair of state highways, in constructing and repairing ways in such towns. It may also expend a further amount of not more than five per cent of said appropriation in towns the valuation of which exceeds one million dollars in such amounts as it determines, if such towns appropriate, to be expended under the provisions of this and the preceding section, an amount, in addition to the average annual appropriations for repairs of highways in such town for the preceding five years, equal to the amount allotted by said commission. Such allotments and expenditures shall be made only upon the petition of the selectmen of the towns, and a way constructed or repaired under the provisions of this section shall not thereby become a state highway. No town shall so receive in any one year more than forty per cent of its average annual appropriations for highway purposes for the preceding five years.

Repair of ways in towns having no state highway. 1900, 432, § 2. 1901, 433.

SECTION 18. Said commission shall construct and maintain such portion of a state highway as lies between the lines of the sidewalks nearest to the center of the way. The sidewalks of said way may be constructed and maintained in accordance with the provisions of sections forty-two and forty-three of chapter forty-nine.

Construction of state highways. 1896, 345, § 1.

Road machines to be provided. 1895, 486. 1896, 513, § 1. 1897, 355, § 3. 1901, 416. [1 Op. A. G. 358.]

SECTION 19. Steam road rollers and other road machinery owned by the commonwealth shall be managed and maintained under the direction of said commission, which may engage competent engineers and mechanics to operate and keep said machines in repair, may purchase all needed materials and supplies, and may incur such other expenses as may be necessary to operate, maintain and transport said machines. Upon the application of the selectmen or road commissioners of a town of not more than twelve thousand inhabitants, said commission may furnish such road machinery for use in building or repairing ways in that town. The expenses incurred under the provisions of this section shall be paid by the towns using said machines, as apportioned and directed by said commission.

Rights of adjoining owner or occupant, etc. 1893, 476, § 12.

SECTION 20. No length of possession, or occupancy of land within the limits of a state highway, by an owner or occupant of adjoining land shall give him any title thereto, and any fences, buildings or other obstructions encroaching upon a state highway shall, upon written notice by said commission, be forthwith removed by the owner or occupant of adjoining land, and if not so removed, said commission may cause the same to be removed upon said adjoining land.

Laying pipes, planting trees, etc., regulated. 1893, 476, § 14. [1 Op. A. G. 317.]

SECTION 21. No state highway shall be dug up for laying or placing pipes, sewers, poles, wires or railways or for other purposes, and no tree shall be planted or removed or obstruction placed thereon, without the written permit of the highway commission, and then only in accordance with the regulations of said commission; and the work shall be done under the supervision and to the satisfaction of said commission, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given or by whom the work was done; but a city or town may dig up such state highway without such approval of the highway commission in case of immediate necessity; but in such cases it shall be forthwith replaced in as good condition as before at the expense of the city or town. Said commission shall give suitable names to the state highways, and may change the name of any way which becomes a part of a state highway. They shall erect suitable guide posts at convenient points along state highways.

Names to be given to state highways; guide posts to be erected, etc.

CHAPTER 48.

OF THE LAYING OUT AND DISCONTINUANCE OF WAYS AND OF DAMAGES CAUSED BY THE TAKING OF LAND FOR PUBLIC USES.

SECTIONS 1–57. — Highways.
SECTIONS 58–64. — Jurisdiction of Towns over Highways and County Bridges.
SECTIONS 65–83. — Town Ways and Private Ways.
SECTION 84. — Footways.
SECTIONS 85–87. — Reserved Spaces in Public Ways.
SECTIONS 88–91. — Ways in the County of Suffolk.
SECTIONS 92, 93. — Rights of Land Owner if Possession is not Taken or Actual Notice Given.
SECTION 94. — Ways in Cities.
SECTIONS 95, 96. — Ways Deemed to be Laid Out under this Chapter, unless otherwise Expressly Declared.
SECTION 97. — Record of Land Taken for Highway Purposes.
SECTIONS 98–100. — Dedication of Ways.
SECTIONS 101, 102. — Ascertainment of Location.
SECTION 103. — Building Line.
SECTION 104. — Erection of Monuments.
SECTIONS 105, 106. — Taking of Materials for Ways.
SECTIONS 107–114. — Damages Caused by Taking Land for Public Uses.

HIGHWAYS.

Laying Out and Discontinuance of Ways.

Highways, how laid out. C. L. 64, § 1. 1693–4, 6, § 3. 1756–7, 18, § 1. 1786, 67, § 4. 1797, 30, § 1. 1825, 171, §§ 1, 2.

SECTION 1. If common convenience and necessity require a new highway from town to town or from place to place within the same town, or the alteration or discontinuance of an existing highway, application therefor shall be made, by petition in writing, to the county commissioners having jurisdiction thereof.

R. S. 24, § 1. G. S. 43, § 1. P. S. 49, § 1. 7 Mass. 158. 1 Met. 336. 9 Met. 423. 7 Cush. 399. 9 Gray, 57, 186. 1 Allen, 37. 6 Allen, 10, 20. 8 Allen, 21. 9 Allen, 203. 11 Allen, 530. 108 Mass. 68. 122 Mass. 110. 133 Mass. 329.

Recognizance for costs, etc. 1827, 77, § 11. R. S. 24, § 41. G. S. 43, § 2. P. S. 49, § 2. 18 Pick. 309. 9 Met. 423. 114 Mass. 583.

SECTION 2. The petitioners shall, before any action is taken upon such petition, cause a sufficient recognizance to be given to the county, with surety to the satisfaction of the commissioners, for the payment of all costs and expenses to the county which shall arise by reason of the proceedings on such petition, if the petitioners do not prevail.

Notice to towns, etc. 1756–7, 18, § 1. 1827, 77, § 7. R. S. 24, § 2. G. S. 43, § 3. P. S. 49, §§ 3, 4. 2 Mass. 118. 3 Mass. 188. 18 Pick. 309. 9 Met. 423. 7 Gray, 109.

SECTION 3. The commissioners shall, thirty days at least before the time appointed for a view or hearing, cause notice of the time and place appointed therefor and a copy of such petition to be served upon the clerk of every town within which such new highway, alteration or discontinuance is prayed for. They shall also cause copies of the petition, or abstracts thereof and of the notice, to be posted in two public places in each of said towns and to be published three weeks successively in such newspaper as they shall order; the posting and the last publication to be fourteen days at least before any view, hearing or adjudication on such petition.

View and adjudication.
1825, 171, § 3.
1827, 77, § 7.
R. S. 24, §§ 3, 4.
G. S. 43, §§ 4, 5.
P. S. 49, §§ 4, 5.
2 Met. 185.
9 Met. 423.
16 Gray, 36.
9 Allen, 203.
11 Allen, 530.

SECTION 4. They shall view the premises if they consider it expedient or if requested by any party interested; and shall hear the parties, either at the time of the view, at a regular or special meeting or at an adjournment thereof, as they determine; and as soon as may be after the hearing, they shall adjudicate upon the common convenience and necessity of laying out, altering or discontinuing such highway.

Notice before highway is laid out, etc.
1827, 77, § 7.
1828, 103, § 3.
R. S. 24, § 6.
G. S. 43, § 6.
P. S. 49, § 6.
18 Pick. 309.
20 Pick. 71.

SECTION 5. If they adjudicate that the common convenience and necessity require the laying out, alteration or discontinuance of a highway, they shall forthwith lay out, alter or discontinue it; first giving such notice thereof as is required before a view, except that an abstract of the petition may be served and published.

22 Pick. 278. 7 Gray, 109. 11 Allen, 537. 117 Mass. 417, 423.

Alterations between termini.
R. S. 24, § 5.
G. S. 43, § 7.
P. S. 49, § 7.

SECTION 6. They may make such changes between the termini of the highway described in the petition, relative to the direction, alteration or discontinuance thereof, as in their opinion the public convenience requires.

Commissioners may lay out, etc., highways, at view, when.
1827, 77, § 7.
1828, 103, § 3.
R. S. 24, § 6.
1839, 76, § 1.
G. S. 43, § 8.
P. S. 49, § 8.
20 Pick. 71.
9 Met. 423.
9 Gray, 57.

SECTION 7. If, at the time of a view upon a petition for laying out or altering a highway, no person interested objects, the commissioners may, within six months thereafter, lay out or alter the same without further notice. If, at the time of a view upon a petition for discontinuing a highway, the commissioners decide that it ought to be discontinued, they may at the same time adjudge and determine that it be discontinued, without a further or subsequent meeting therefor, and may estimate the damages caused to any person thereby; and if a return of said proceedings and adjudication is made and accepted at the next regular meeting of the commissioners, it shall be a discontinuance of such highway.

Time for making highways and removing trees, etc.
1633-4, 6, § 3.
1796, 58, § 6.
1802, 135, § 4.
1827, 77, § 7.
R. S. 24, § 10.
1859, 132, § 2.
G. S. 43, § 13.
P. S. 49, § 9.
3 Mass. 406.
12 Cush. 254.
7 Gray, 109.
100 Mass. 159.
119 Mass. 556.
121 Mass. 42.
125 Mass. 221.
131 Mass. 470.
149 Mass. 328.
151 Mass. 28.

SECTION 8. The commissioners shall, in their return, determine and specify the manner in which a new highway shall be laid out or an existing one altered and the time within which it shall be completed; and shall transmit to the clerks of the towns in which it lies a description of the location and bounds thereof within the limits of such towns respectively, which shall, within ten days, be recorded by the clerk in a book kept for that purpose. They shall also specify in their return a reasonable time within which the owner of the land may take off his timber, wood or trees, and give him notice thereof. If he fails to remove the same within the time allowed, he shall be held to have relinquished his right thereto for the benefit of the town.

Specific Repairs.

Upon petition for laying out, etc., highway, commissioners may order specific repairs of existing ways.
1835, 152, § 7.
R. S. 24, § 7.
G. S. 43, § 9.
P. S. 49, § 10.
1 Met. 336.
3 Met. 376.

SECTION 9. If, upon a petition for the laying out or alteration of a highway, the commissioners, after a view and hearing, are of opinion that the existing highway between the termini mentioned in the petition can be so far amended as to supersede the necessity of laying out a new highway or of altering the location of existing ways, they may, after notice to the towns interested, direct specific repairs to be made in the existing ways in such manner as

the public convenience may require; and may apportion the expense thereof upon the county and towns respectively as in laying out highways.

SECTION 10. At the time of ordering specific repairs upon a highway, they may direct it to be closed to the public travel for such time as they consider reasonable. G. S. 43, § 10. P. S. 49, § 11.

Highway may be temporarily closed. 1839, 90.

SECTION 11. Towns in which specific repairs are ordered to be made shall be liable to make the same.

1835, 152, § 7. R. S. 24, § 8. G. S. 43, § 11. P. S. 49, § 12.

Towns to make certain repairs.

Relocation.

SECTION 12. If application is made to the commissioners by a town, or by five inhabitants thereof, to relocate a way within such town, whether it was laid out by the authority of the town or otherwise, they may, either for the purpose of establishing the boundary lines of such way or of making alterations in the course or width thereof, relocate it, after giving notice and proceeding in the manner prescribed in laying out highways. The expense shall be assessed upon the abutters, upon the petitioners or upon the county or town, as the commissioners may order.

117 Mass. 416, 585. 120 Mass. 401. 122 Mass. 273. 133 Mass. 332. 153 Mass. 168. 164 Mass. 9. 167 Mass. 143. 176 Mass. 22. 177 Mass. 511.

Existing highway may be relocated. 1835, 152, § 8. R. S. 24, § 9. 1851, 214. G. S. 43, § 12. 1873, 165. P. S. 49, § 13. 11 Cush. 394. 2 Gray, 274. 4 Allen, 488. 100 Mass. 159. 110 Mass. 305. 114 Mass. 583.

Assessment of Damages and Indemnity.

SECTION 13. The commissioners shall estimate the damages, if any, sustained by persons in their property by the laying out, relocation, alteration or discontinuance of a highway, and shall, in their return, state the share of each separately; but such damages shall not be payable until the land over which the highway or alteration is located has been entered upon and possession taken for the purpose of constructing it. But if no entry is made upon the land or if the location has for any other cause become void, a person who has suffered loss or been put to expense by the proceedings shall be indemnified therefor by the commissioners.

3 Cush. 45, 81. 8 Cush. 360. 11 Cush. 394. 2 Gray, 267. 3 Gray, 220. 4 Gray, 537. 5 Gray, 35, 372. 3 Allen, 538. 101 Mass. 439. 108 Mass. 535. 116 Mass. 165. 117 Mass. 76. 121 Mass. 42. 122 Mass. 338. 125 Mass. 219. 137 Mass. 257. 144 Mass. 139. 164 Mass. 22. 166 Mass. 511.

Estimate of damages. Indemnity. C. L. 64, § 1. 1693–4, 6, § 3. 1756–7, 18, § 2. 1786, 67, § 4. 1812, 121, § 1. 1825, 171, § 3. 1827, 77, § 11. R. S. 24, § 11. 1842, 86, § 1. G. S. 43, § 14. P. S. 49, § 14. 22 Pick. 263. 2 Met. 558. 10 Met. 465. 12 Met. 123.

SECTION 14. They shall estimate the damages sustained by any person in his property by specific repairs which are ordered to be made in a highway, and make return thereof; and at their first meeting after the repairs have been completed, they shall order the damages to be paid. But if the order for repairs does not go into effect or is rescinded or altered, they shall order only so much of the damage to be paid as in their opinion has been actually sustained.

Damages caused by specific repairs. Indemnity. 1842, 86, § 2. G. S. 43, § 15. P. S. 49, § 15. 8 Cush. 362. 2 Gray, 267. 144 Mass. 585.

SECTION 15. In estimating the damage to property of a person by the laying out, relocation, alteration or discontinuance of a highway, or by an order for specific repairs, regard shall be had to all

Set-off of benefits. R. S. 24, § 31. 1842, 86, § 2. G. S. 43, § 16.

P. S. 49, § 16.
2 Mass. 492.
2 Met. 560.
5 Met. 372.
4 Cush. 291.
4 Gray, 537.

the damages done to him, whether by taking his property or by injuring it in any manner and there shall be deducted the benefit accruing to such property thereby.

13 Gray, 546. 14 Gray, 155, 214. 2 Allen, 533. 3 Allen, 133. 7 Allen, 313. 98 Mass. 312. 108 Mass. 60, 535. 109 Mass. 243. 111 Mass. 294. 113 Mass. 97, 111, 262. 5 Gray, 35. 114 Mass. 490, 513. 115 Mass. 377. 116 Mass. 200. 117 Mass. 363. 120 Mass. 393. 11 Gray, 26, 415. 125 Mass. 557. 143 Mass. 521. 144 Mass. 139, 319. 151 Mass. 259. 173 Mass. 552.

Removal of buildings.
1866, 174, § 4.
1868, 75.
1869, 367, § 3.
1871, 382, § 4.
P. S. 49, § 17.
149 Mass. 328.
151 Mass. 28, 250.

SECTION 16. If the owner of buildings or materials on land which has been taken refuses or neglects to take care of or remove them, after reasonable notice in writing from the commissioners, the commissioners may take such care of them as their preservation or public safety requires, or may remove them upon the adjoining land of such owner, or elsewhere, or sell them at public auction, after five days' notice of such sale, and hold the proceeds for the benefit of such owner. The expense so incurred, or the value thereof to the owner, shall be allowed in reduction of damages.

Damages and Indemnity of Different or Contingent Estates.

Damages of claimants having different interests.
R. S. 24, § 12.
1851, 290, § 1.
G. S. 43, § 17.
1875, 117, § 1.
P. S. 49, §§ 18, 28.
1883, 253.
23 Pick. 433.
106 Mass. 547.
108 Mass. 535.
114 Mass. 483.
121 Mass. 453.
126 Mass. 384.
133 Mass. 207.
149 Mass. 176.

SECTION 17. If a tenant for life or for years and the remainderman or reversioner sustain damages in their property by the laying out, relocation, alteration or discontinuance of, or by specific repairs on, a highway, or if the property is encumbered by a contingent remainder, executory devise or power of appointment, entire damages, or an entire amount as indemnity, shall be assessed without apportionment thereof; and shall be paid to, or be recoverable by, any person whom the parties may appoint, and be held in trust by him for their benefit according to their respective interests. The trustee shall, from the income thereof, pay to the reversioner or remainderman the value of any annual rent or other payment which would, but for such damages, have been payable by the tenant, and the balance thereof to such tenant during the period for which his estate was limited, and upon its termination, he shall pay the principal to the reversioner or remainderman.

Certain damages to be awarded separately.
1874, 388, § 3.
P. S. 49, § 27.
168 Mass. 366.

SECTION 18. The amount so to be placed in trust shall include only the damages assessed to the whole property when the value thereof is ascertained; and any damage special to a separate estate therein, and all interest or other earnings which accrue between the taking and the receipt by the trustee of the damages to the whole property, shall be awarded in the same proceedings separately.

Trustee in certain cases to be appointed by probate court.
1851, 290, § 2.
G. S. 43, § 18.
1875, 117, § 2.
P. S. 49, §§ 19, 29.
126 Mass. 384.
133 Mass. 207.

SECTION 19. If a person having an interest in such property is, by reason of legal disability, incapable of choosing a trustee, or is unascertained or not in being, or if the parties cannot agree upon a choice, the probate court of the county in which the property is situated shall, upon application of the county commissioners or of any persons interested or of any other person, in behalf of such persons, whether in being or not, as may, by any possibility be or become interested in said property, appoint a trustee, who shall give to the judge of probate a bond with such sureties and in such sum as the judge may order, conditioned for the faithful performance of his duties.

SECTION 20. If there are several parties, who have several estates in the same property at the same time, other than the estates and interests for which provision is made in section seventeen, and the property is taken or damaged, in whole or in part, by laying out, relocating, altering or discontinuing a highway, or by making specific repairs thereon, and one of such parties applies for a jury to ascertain his damages, the other parties may become parties to the proceedings under such petition, and the damages of all of them may be determined by the same jury, in the manner provided in the four following sections.

Several parties may go to the same jury.
R. S. 24, § 48.
1851, 290.
G. S. 43, § 53.
P. S. 49, § 20.
5 Met. 372.
3 Cush. 81, 91.
7 Cush. 533.
10 Cush. 385.
108 Mass. 535.
121 Mass. 453.
127 Mass. 378, 578.

SECTION 21. Upon such application, the commissioners shall order the petitioner to give notice thereof to all the other parties interested, by serving each of them, fourteen days at least before their next regular meeting, with an attested copy of such application and the order thereon, that the other parties may appear at the next meeting and become parties to the proceedings under the application; and at the next meeting a jury shall be ordered, and shall hear all parties to the proceedings.

Notice to persons interested to become parties.
R. S. 24, § 49.
G. S. 43, § 54.
P. S. 49, § 21.

SECTION 22. If, on such hearing, the jury find any of the parties entitled to damages, they shall first find and set forth in their verdict the total amount of damages sustained by the owners of such property, estimating the same as an entire estate and as if it were the sole property of one owner in fee simple; and they shall then apportion such damages among the several parties whom they find to be entitled thereto, in proportion to their several interests and to the damages sustained by them, respectively, and set forth such apportionment in their verdict; and if they find that any party has not sustained damage, they shall set forth in their verdict that they award him no damages.

Verdict to apportion damages.
R. S. 24, § 50.
G. S. 43, § 55.
P. S. 49, § 22.
108 Mass. 535.
115 Mass. 1.

SECTION 23. The verdict, if accepted, shall be conclusive upon all parties interested who shall either have had notice as aforesaid, or by consent have become parties to the proceedings; and every person who has had said notice and who neglects to appear and become a party to the proceedings shall be forever barred from making an application for damages.

—conclusive on all who have notice.
R. S. 24, §§ 51, 53.
G. S. 43, §§ 56, 58.
P. S. 49, §§ 23, 25.

SECTION 24. Each party recovering damages shall recover his several costs; and each party not recovering damages shall be liable for costs to the town or other corporation of which he claimed damages as if the proceedings were had under his several application; but if a party, fourteen days before the trial, gives notice in writing to the town or other corporation which may be liable for damages that he relinquishes all claim therefor, and, before the trial, files in the case a relinquishment of such claim, he shall not be liable for costs.

Costs of parties, how taxed.
R. S. 24, § 52.
G. S. 43, § 57.
P. S. 49, § 24.
129 Mass. 138.
139 Mass. 210.

SECTION 25. If it appears in any proceedings under the eight preceding sections that an interest in such property is unrepresented by reason of a contingency or other cause by which the owner thereof is unknown or cannot then be ascertained, a guardian ad litem may be appointed to represent such interest by the tribunal in

When an interest is unrepresented, guardian ad litem may be appointed.
1874, 388, § 2.
P. S. 49, § 26.
118 Mass. 110.

which such proceedings are pending; or the judge of probate for the county in which such proceedings are pending may upon petition of any party in interest, after such notice as he may order to all persons who, or whose issue unborn, may be or may become interested in such apportionment, appoint a trustee, who, upon giving such bond as the judge of probate requires, shall represent such interest; and shall receive, manage and invest any money receivable on account thereof, for the benefit of the parties entitled thereto, and shall pay the principal and interest thereof to such parties when entitled thereto. Such guardian ad litem or trustee may be allowed such costs, including counsel fees, as may be ordered by the court in which such proceedings are finally determined, to be paid from the damages apportioned to the interest which he represents.

Tenant in possession may apply for a jury; or the trustees.
1875, 117, §§ 3, 4.
P. S. 49, § 30.

SECTION 26. The tenant in possession of land which is encumbered by a contingent remainder, executory devise or power of appointment may, subject to the provisions of section twenty-eight, apply for a jury to revise the judgment of the commissioners in the assessment of damages; and if he fails so to apply within the first six months of such year, said trustees may within the remaining six months thereof apply for such jury.

Applications for a Jury to revise Assessment.

Jury may revise assessment.
1756–7, 18, § 2.
1786, 67, § 4.
1812, 121.
R. S. 24, § 13.
1842, 86, § 3.
G. S. 43, § 19.
1870, 75, § 1.
1873, 261.
P. S. 49, § 32.
11 Pick. 269.
21 Pick. 258.
22 Pick. 278.
1 Met. 437.
3 Met. 376.

SECTION 27. A person aggrieved by the doings of the commissioners in the estimation of his damages, caused either by laying out, relocating, altering, widening or discontinuing a highway, or by specific repairs thereon, or in the sum awarded him as indemnity therefor, may, upon petition in writing to the commissioners, have a jury to determine the matter; or he may agree with the parties adversely interested to have the matter determined by a committee which shall be appointed under the direction of the commissioners; or he may apply by petition to the superior court for a jury as provided in section one hundred and nine.

12 Met. 123. 10 Cush. 151. 9 Allen, 204. 117 Mass. 76.
3 Cush. 58, 82. 11 Cush. 389. 100 Mass. 159. 128 Mass. 36.
4 Cush. 291. 5 Gray, 65. 102 Mass. 123. 139 Mass. 172.
5 Cush. 602. 1 Allen, 329. 105 Mass. 140. 147 Mass. 446.

Application for jury.
1756–7, 18, § 2.
1786, 67, § 4.
1812, 121.
1827, 77, § 12.
1834, 173, § 1.
R. S. 24, § 14.
1842, 86, § 3.
1849, 200.
1857, 133.
G. S. 43, § 22.
P. S. 49, § 33.
1892, 415, § 1.
8 Cush. 362.
99 Mass. 236.
120 Mass. 416.
128 Mass. 97.

SECTION 28. Such petition to the commissioners for a jury may be made at any time before the expiration of one year, in the case of the taking of land, from the day when the highway is entered upon and possession taken for the purpose of constructing the same, in the case of specific repairs, from the day when the work is actually commenced on the way, and in all other cases, from the date of the order providing for the same; but if before the expiration of the year a suit is instituted wherein the legal effect of the proceedings of the commissioners is drawn in question, such application may be made within one year after the final determination of the suit.

137 Mass. 482. 175 Mass. 590.

Joinder of applications.
1802, 135, § 3.
1818, 121, § 2.
R. S. 24, § 15.
G. S. 43, § 23.
1870, 75.
P. S. 49, § 34.
22 Pick. 281.

SECTION 29. If two or more persons petition the commissioners at the same time for joint or several damages or indemnity, they may join in the same petition; and if several petitions for a jury on account of the same highway are pending at the same time before the commissioners, they shall cause them to be determined by the

same jury; and the costs shall be taxed either jointly or severally, as the court to which the verdict may be returned determines. 13 Met. 316. 2 Cush. 346. 13 Gray, 553.

14 Gray, 112. 102 Mass. 125. 139 Mass. 216. 154 Mass. 395.

SECTION 30. A jury shall not be ordered, or a committee appointed, until the petitioners have given a recognizance to the county for the payment of all the costs and expenses if the jury or committee does not increase the damages or indemnity allowed by the commissioners. Recognizance for costs. 1827, 77, § 11. R. S. 24, § 41. G. S. 43, § 24. 1870, 75. P. S. 49, § 35. 102 Mass. 121, 123, 124.

125 Mass. 483. 126 Mass. 288. 129 Mass. 137. 139 Mass. 211. 144 Mass. 459.

SECTION 31. A petition for a jury shall not abate or be defeated by the death of the petitioner; but the executor or administrator may appear and prosecute such petition, or present a new petition, in the same manner and with the same effect as the original party might have done. Petitions not to abate by death. 1833, 88, § 1. R. S. 24, § 16. G. S. 43, § 25. P. S. 49, § 36. 110 Mass. 421. 122 Mass. 261. 139 Mass. 172.

SECTION 32. If, upon the death of one or more of several petitioners for a jury, the executors or administrators of such petitioners, after due notice that such petition is pending, neglect to appear or to prosecute, the surviving petitioners may proceed in the same manner as if they only had made the application. Survivors may proceed, when. 1833, 88, § 2. R. S. 24, § 17. G. S. 43, § 26. P. S. 49, § 37.

SECTION 33. The warrant for a jury shall be directed to the sheriff of the county or his deputy, who is disinterested, or to a special sheriff, as the commissioners may order, requiring him to summon a jury of twelve men to hear and determine the matter set forth in the petition, and to decide all such matters as shall legally come before them on the hearing. Warrant for jury, etc. 1756–7, 18, § 2. 1786, 67, § 4. 1802, 135, § 1. 1827, 77, § 12. R. S. 24, § 18. G. S. 43, § 27. P. S. 49, § 38. 5 Mass. 438. 11 Pick. 269.

13 Met. 316. 3 Cush. 59. 4 Cush. 291. 110 Mass. 426. 124 Mass. 570.

SECTION 34. The officer who receives the warrant shall in writing require the selectmen of each of the three nearest towns not interested in the question, if there are so many in the county, to return not less than two nor more than six jurors from any one town unless in case of necessity; and the jurors shall be drawn, summoned and returned as in other cases, except that they need not be summoned more than twenty-four hours before the time appointed for their attendance. Jury, how summoned. 1802, 135, § 1. 1827, 77, § 12. R. S. 24, § 19. G. S. 43, § 28. P. S. 49, § 39. 13 Met. 316. 4 Cush. 291. 6 Allen, 92, 115. 105 Mass. 303. 110 Mass. 426.

SECTION 35. If a juror so summoned fails without sufficient cause to attend, he shall be punished by a fine of not more than ten dollars, at the discretion of the court to which the verdict is returned. Jurors to pay fine for non-attendance. R. S. 24, § 20. G. S. 43, § 29. P. S. 49, § 40.

SECTION 36. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the officer who summoned the jury or, in his absence the officer attending the jury, shall return suitable persons to supply the deficiency. Talesmen. 1802, 135, § 1. R. S. 24, § 21. G. S. 43, § 30. P. S. 49, § 41. 158 Mass. 185.

SECTION 37. The jurors shall be sworn to make a just and true appraisal of the damages sustained by the petitioner or of the indemnity to which he is entitled, and well and truly to try all matters Jurors to be sworn. R. S. 24, § 22. G. S. 43, § 31.

1870, 75.
P. S. 49, § 42.

lawfully submitted to them under the complaint, and to give a true verdict therein, according to the law and the evidence given to them.

Commissioners may appoint person to preside at trial.
1830, 112, §§ 1, 2.
R. S. 24, § 23.
G. S. 43, § 32.
P. S. 49, § 43.

SECTION 38. The commissioners may, at the request of either party, appoint a suitable person to preside at the trial, in which case the jury may be attended by a deputy sheriff; but if no person is so appointed, the sheriff, or if he is interested or unable to attend, the special sheriff, shall preside.

1 Cush. 480. 2 Allen, 557. 110 Mass. 425.

Duties of presiding officer.
R. S. 24, §§ 24, 25.
G. S. 43, § 33.
P. S. 49, § 44.
11 Pick. 274.
1 Cush. 480.
2 Allen, 556.
6 Allen, 100.
102 Mass. 124.
110 Mass. 426.
116 Mass. 124.
124 Mass. 567.

SECTION 39. The person presiding at the trial shall keep order thereat, administer the oath to the jurors and witnesses, decide all questions of law arising on the trial which would be proper for the decision of a judge, direct the jury upon any question of law, if requested by either party; and, if requested, shall certify to the court, with the verdict, the substance of any decision or direction given by him, and an abstract or report of the evidence or of so much thereof as either party requests.

Commissioners may agree to a committee; agent.
1827, 77, § 12.
R. S. 24, §§ 26, 27.
G. S. 43, § 34.
P. S. 49, § 45.

SECTION 40. When a petition for a jury is presented, the commissioners shall, on behalf of the county, take notice thereof, and may agree with the petitioners to substitute a committee in the place of a jury, as before provided. They may appoint a suitable person to attend upon the jury or the committee as an agent for the county, who shall be allowed therefor three dollars a day, and ten cents a mile for travel.

Notice of trial.
1827, 77, § 12.
R. S. 24, § 28.
G. S. 43, § 35.
P. S. 49, § 46.
13 Met. 325.

SECTION 41. The officer by whom a jury is summoned shall give seasonable notice of the time and place of their meeting to the person appointed to preside at the trial and to the agent for the county, if any have been appointed. If a committee has been substituted for a jury, the notice to the agent shall be given by the person first named on the committee.

Officer's fees for summoning jury, etc.
1802, 135, § 5.
R. S. 24, § 29.
G. S. 43, § 36.
1873, 204, § 1.
P. S. 49, §§ 47, 48.
1882, 96.

SECTION 42. He shall receive four cents a mile for all necessary travel for summoning the juries, and four dollars for each day he attends upon them. He shall certify to the court his own travel and attendance, that of each juror, and that of the presiding officer. The officer who presides over the jury shall receive therefor ten dollars a day and ten cents a mile for travel.

13 Met. 325. 102 Mass. 124. 110 Mass. 425.

Duty of jury.
1786, 67, § 5.
R. S. 24, § 30.
G. S. 43, § 37.
P. S. 49, § 49.

SECTION 43. The jury shall view the land if they think proper, or upon the request of either party, and shall hear and examine all legal evidence laid before them, with the arguments of the parties or their counsel thereon. All the jurors shall sign the verdict agreed upon, which shall be enclosed in a sealed wrapper, with an indorsement thereon expressing what it contains, and delivered to the officer in charge.

Title of land determined only as respects damages.

SECTION 44. If the interest or right of a petitioner in or to the real estate alleged to be damaged by laying out, relocating, altering, discontinuing or making specific repairs upon a highway is drawn

in question at such hearing, the jury may hear and determine the question of interest or right so far only as respects the damages. 20 Pick. 203. 5 Met. 372. 11 Cush. 509.

1802, 135, § 2. R. S. 24, § 32. G. S. 43, § 38. P. S. 49, § 50.

SECTION 45. A jury assessing damages may extend the time allowed by the commissioners under the provisions of sections eight and sixteen for the owner of the land to take off the timber, wood, trees or other property. If he neglects to take off the same within the extended time, he shall be deemed to have relinquished his claim thereto for the benefit of the town, as before provided. 149 Mass. 328.

Extension of time for removing trees, etc. 1802, 135, § 4. R. S. 24, § 33. G. S. 43, § 39. P. S. 49, § 51. 6 Gray, 442. 121 Mass. 42. 125 Mass. 221.

SECTION 46. If a jury is ordered, they shall be summoned and shall give their verdict within three months after the date of the order. If the matter is determined by a committee, its report shall be made within three months after its appointment. The verdict or report shall be forthwith returned to the superior court for the same county and the court shall adjudicate thereon, and for good cause may set it aside. 99 Mass. 635. 109 Mass. 242. 110 Mass. 426. 113 Mass. 260. 116 Mass. 124. 117 Mass. 566. 119 Mass. 98, 99. 130 Mass. 455. 144 Mass. 459.

Verdict or report, return of; may be set aside. 1827, 77, § 12. R. S. 24, § 34. G. S. 43, § 40. P. S. 49, § 52. 5 Mass. 435. 1 Cush. 562. 3 Cush. 15. 6 Allen, 98.

SECTION 47. If the jury does not agree upon a verdict or if the verdict, report or proceedings are set aside upon a writ of certiorari, the petitioner shall be entitled to a new jury from time to time until a verdict has been rendered and established; but he may at any time, upon terms, waive his right to a trial by jury and accept the damages assessed by the commissioners. 102 Mass. 123. 117 Mass. 436. 125 Mass. 483.

Petitioner to have jury until verdict; waiver of right to trial, etc. R. S. 24, § 35. G. S. 43, § 41. P. S. 49, § 53. 10 Pick. 235. 14 Pick. 189. 13 Met. 452.

SECTION 48. The clerk of the court shall certify such verdict or report, with the adjudication of the court thereon, to the commissioners at their next meeting after the adjudication; and if the verdict or report has been set aside, the commissioners, on petition therefor, shall order a new jury, or the parties may agree upon a new committee; and thereupon the proceedings shall be as hereinbefore provided.

Clerks of courts to certify verdict. 1827, 77, § 12. R. S. 24, § 36. G. S. 43, § 42. P. S. 49, § 54. 102 Mass. 123. 110 Mass. 428. 139 Mass. 173.

SECTION 49. The verdict or report, returned to the court as before provided, shall, when accepted and recorded, be conclusive upon the parties. 1818, 121, § 2. R. S. 24, § 37. G. S. 43, § 43. P. S. 49, § 55. 20 Pick. 205. 22 Pick. 278. 1 Cush. 562. 102 Mass. 123.

Verdict, etc., conclusive. 1756-7, 18, § 3. 1786, 67, § 5.

SECTION 50. If the jury or committee do not increase the amount allowed by the commissioners as damages or indemnity, the costs and expenses incurred by reason of the application for the jury or committee shall be paid by the persons who recognize for the payment of costs; otherwise they shall be paid by the county. G. S. 43, § 44. 1870, 75. P. S. 49, § 56. 3 Met. 314. 16 Gray, 256, 259. 102 Mass. 118. 126 Mass. 287. 139 Mass. 210.

Costs, how paid. C. L. 64, § 1. 1693-4, 6, § 3. 1756-7, 18, § 2. 1786, 67, § 4. 1818, 121, § 2. 1827, 77, §§ 11, 12. R. S. 24, § 38.

SECTION 51. Any question as to the taxation of costs in the proceedings before a jury or committee shall be determined by the court to which the verdict or report is returned; and the court may also determine the compensation of the committee. 102 Mass. 125.

Questions of costs, how settled, etc. R. S. 24, § 39. G. S. 43, § 45. 1873, 204, § 1. P. S. 49, § 57.

Payment of Expenses, Damages and Cost of Construction.

Expenses, damages, etc., paid by county.
1827, 77, § 11.
R. S. 24, §§ 38, 42.
1842, 86, §§ 1, 2.
G. S. 43, § 47.
P. S. 49, § 58.
2 Gray, 274.

SECTION 52. When a highway has been finally laid out and established, relocated, altered or discontinued, or when specific repairs are ordered on an existing highway, the expenses of the proceeding, the damages allowed therefor and the amounts awarded as indemnity shall be paid by the county upon the order of the commissioners, except as herein otherwise provided. 9 Allen, 204.

Expenses paid by petitioners.
1827, 77, § 11.
R. S. 24, § 43.
G. S. 43, § 48.
P. S. 49, § 59.
3 Met. 314.
16 Gray, 259, 348.

SECTION 53. If a highway is not finally laid out and established, relocated, altered or discontinued, or if specific repairs are not ordered, said expenses shall be paid by the persons who have recognized therefor. If they refuse or neglect, when required by the commissioners, to pay such expenses, or to pay the costs incurred by reason of the application for a jury or committee, such expenses or costs shall be paid by the county; and thereupon the commissioners may, after notice to the persons who so recognized, issue a warrant against them or some of them, unless sufficient cause is shown to the contrary, for the amount ordered to be paid by them, with the further costs of the notice and warrant, and the money shall be collected and paid into the county treasury.

Highways, how made when towns neglect.
1827, 77, § 7.
R. S. 24, § 44.
G. S. 43, § 49.
P. S. 49, § 60.
5 Greenl. 254.
16 Gray, 194, 348.
103 Mass. 125.
120 Mass. 401.
143 Mass. 245.
165 Mass. 296.

SECTION 54. If, after a highway has been established by the commissioners, a town whose duty it is to make such highway, or a part thereof, does not make and complete the same within the time and in the manner prescribed and to the acceptance of the commissioners, they shall forthwith cause such highway to be completed as aforesaid, and at their next meeting they shall direct the expenses and charges of completing the same to be paid by the county, and shall order notice thereof to be given to each delinquent town, stating the proportion which it is to pay.

Warrants against delinquent towns.
1786, 67, § 6.
1827, 77, § 7.
R. S. 24, § 45.
G. S. 43, § 50.
P. S. 49, § 61.
16 Gray, 348.
103 Mass. 125.

SECTION 55. If a delinquent town does not pay its proportion of such expenses and charges before the next regular meeting of the commissioners, with interest thereon at the rate of ten per cent a year from the time when the same is paid by the county, the commissioners may, after a hearing, issue a warrant against such town for the amount it was ordered to pay, with the interest and the further costs of such notice and warrant, which shall be collected and paid into the county treasury.

Expenses payable by county.
1827, 77, § 8.
R. S. 24, §§ 46, 47.
1841, 105, § 1.
G. S. 43, §§ 51, 52.
P. S. 49, §§ 62, 63.
13 Pick. 225.
6 Met. 329.

SECTION 56. When a highway which has been laid out or altered is completed, the commissioners shall view and carefully examine it throughout, and if they find that it has been well made according to their direction, they may order the whole or any part of the expense incurred by any town in making or altering it to be paid by the county.

Culverts, etc.

Culverts, cattle passes, etc.
1867, 256.
P. S. 49, § 64.

SECTION 57. If the commissioners require a culvert, cattle pass or other passage way to be made under a highway, they may order the town to construct the same as a part of the highway, and may order the whole or any part of the expense to be paid by the county.

JURISDICTION OF TOWNS OVER HIGHWAYS AND COUNTY BRIDGES.

Alterations by towns of highways, etc. 1891, 170, §§ 1, 2, 8.

SECTION 58. The selectmen or road commissioners of a town may exercise original and concurrent jurisdiction with the county commissioners of petitions for altering, widening, relocating or making specific repairs upon a highway or county bridge therein; but, except as to such portions thereof as by such action become unnecessary for public use, a town shall not discontinue any highway or county bridge or diminish the width thereof, nor shall it assess any part of the expense of altering, widening, relocating or repairing upon the county. The proceedings of the town and its officers under the provisions of this section and the remedies of persons whose rights are affected thereby shall be the same as in the case of town ways.

Copy of record to county commissioners. 1891, 170, § 6.

SECTION 59. Within two weeks after a town has taken final action relative to the alteration, relocation, widening or making of specific repairs upon a highway or county bridge under the provisions of the preceding section, the town clerk shall send a certified copy of the record of such final action to the county commissioners who shall cause it to be recorded in the same manner as their proceedings relative to highways and county bridges.

Appeals to county commissioners. 1891, 170, § 4.

SECTION 60. On appeals to the county commissioners from the action of the selectmen, road commissioners, or of the town, they shall give not less than fourteen days' notice to all persons interested, in the same manner and to the same persons as is required in the laying out of town ways, and also by causing a copy of such notice to be published in a newspaper designated by them, not less than seven days before any hearing.

Betterment acts applicable. 1891, 170, § 3.

SECTION 61. In a town which accepts the provisions of sections fifty-eight to sixty-four, inclusive, or has accepted the corresponding provisions of earlier laws, and which has accepted the provisions of chapter one hundred and sixty-nine of the acts of the year eighteen hundred and sixty-nine or of chapter three hundred and eighty-two of the acts of the year eighteen hundred and seventy-one, or of the first nine sections of chapter fifty-one of the Public Statutes, or of the first nine sections of chapter fifty of the Revised Laws, the provisions of law relative to betterments shall apply to the action of such town relative to any highway or county bridge therein.

Acceptance of preceding sections. 1891, 170, § 8.

SECTION 62. The provisions of the four preceding sections shall not take effect in a town until they have been accepted at a meeting called for the purpose. The ballots shall be furnished by the town, and shall be in the following form: — Shall sections fifty-eight to sixty-four, inclusive, of chapter forty-eight of the Revised Laws, relative to jurisdiction of towns over highways and county bridges, be accepted? Yes. (or) No.

Return of vote of acceptance. 1891, 170, § 7.

SECTION 63. Within ten days after such acceptance, the town clerk shall send a certified copy of the vote of acceptance to the county commissioners.

Certain provisions not affected.
1891, 170, § 5.

SECTION 64. The provisions of the six preceding sections shall not affect the provisions of sections one hundred and twenty-two to one hundred and forty-three, inclusive, of chapter one hundred and eleven, nor of sections one hundred and forty-nine to one hundred and sixty, inclusive, of said chapter.

TOWN WAYS AND PRIVATE WAYS.

Town ways, etc., how laid out.
C. L. 64, § 2.
1693–4, 6, § 4.
1713–14, 8, § 1.
1746–7, 10.

SECTION 65. The selectmen or road commissioners of a town may lay out or alter town ways for the use of the town and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways.

1786, 67, § 1. P. S. 49, § 65. 4 Allen, 529. 145 Mass. 564.
R. S. 24, § 66. 9 Pick. 146. 11 Allen, 530. 150 Mass. 309.
1842, 86. 7 Cush. 394. 108 Mass. 68, 202. 160 Mass. 392.
G. S. 43, § 59. 16 Gray, 175. 137 Mass. 257.

— how discontinued.
1727–8, 1, § 2.
1785, 75, § 7.

SECTION 66. A town, at a meeting called for the purpose, may discontinue a town way or private way.

R. S. 24, § 70. P. S. 49, § 66. 1 Cush. 496. 143 Mass. 490.
G. S. 43, § 60. 11 Met. 524. 13 Gray, 260. 150 Mass. 309.

Notice before laying out, etc.
1835, 122.
R. S. 24, § 67.
G. S. 43, § 61.
1871, 158.
1873, 51.
P. S. 49, § 67.
1 Met. 407.
2 Met. 227.
2 Gray, 417.
98 Mass. 491.
119 Mass. 480.
121 Mass. 132.
136 Mass. 477.

SECTION 67. No town way or private way shall be laid out or altered unless, seven days at least previous to the laying out or alteration, a written notice of the intention of the selectmen or road commissioners of the town to lay out or alter the same is left by them, or by their order, at the usual place of abode of the owners of the land over which such way is proposed to be laid out or altered, or unless such notice is delivered to such owner in person or to his tenant or authorized agent. If the owner has no such place of abode in the town and no tenant or authorized agent therein known to the selectmen or if, being a resident in the town, he is not known as such to the selectmen or road commissioners, such notice shall be posted in a public place in the town seven days at least before the laying out or alteration of such way.

Damages from lay out, etc., how determined.
1727–8, 1, § 2.
1786, 67, § 1.
R. S. 24, § 68.
1842, 86.
G. S. 43, § 62.
1871, 158.
1873, 51.
P. S. 49, § 68.
1 Met. 407.
4 Gray, 360.
5 Gray, 31.
11 Allen, 533.
137 Mass. 257.
144 Mass. 139.
170 Mass. 593.

SECTION 68. The selectmen or road commissioners shall assess the damages sustained by a person in his property by the laying out, alteration or discontinuance of a town way or private way or by specific repairs thereon, in the manner provided for the assessment and award of damages by county commissioners in laying out highways, which damages, if it is a town way, shall be paid by the town or, if it is a private way, by the person for whose use or benefit it is laid out, altered or specific repairs are ordered, or, if it is discontinued, by the person on whose application it is discontinued, unless the selectmen or road commissioners order a part thereof to be paid by the town.

— when paid. Indemnity.
1842, 86.
1847, 259, § 4.
G. S. 43, § 63.
P. S. 49, § 69.
10 Met. 465.
12 Met. 123.
9 Gray, 346.
3 Allen, 38.
98 Mass. 491.
122 Mass. 342.
164 Mass. 23.

SECTION 69. Such damages shall not be paid until the land has been entered upon and possession taken for the purpose of constructing such way or alteration, or until such specific repairs have been commenced. If possession is not taken, or if the specific repairs are not made, such person shall be entitled to indemnity for loss or expense incurred by the proceedings, which shall be assessed by the selectmen or road commissioners in the same manner as indemnity is awarded by county commissioners in like cases.

SECTION 70. If there are separate, different or contingent interests in land or buildings which have been so taken or injured, of the character mentioned in sections seventeen to twenty-six, inclusive, the damages shall be assessed by the selectmen or road commissioners in the manner therein provided for an assessment by the county commissioners.

Damages to separate interests.
1855, 10.
G. S. 43, § 64.
P. S. 49, § 70.
1 Met. 407.

SECTION 71. No town way or private way which has been laid out or altered by the selectmen or road commissioners shall, except as hereinafter provided, be established until such laying out or alteration, with the boundaries and measurements of the way, is filed in the office of the town clerk and, not less than seven days thereafter, is reported to, and accepted and allowed by, the town at a meeting called for the purpose.

Location, etc., to be filed, etc., before lay out.
1727-8, 1, § 1.
1785, 75, § 7.
1786, 67, § 1.
R. S. 24, § 69.
G. S. 43, § 65.
P. S. 49, § 71.
2 Greenl. 60.

3 Greenl. 438. 9 Pick. 146. 118 Mass. 138. 135 Mass. 162.
2 Mass. 529. 9 Met. 423. 120 Mass. 130. 145 Mass. 539.
5 Pick. 492. 105 Mass. 535. 123 Mass. 543. 153 Mass. 12.

SECTION 72. In a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the selectmen, road commissioners or sewer commissioners may, when a town way is laid out, altered or widened, enter and lay sewers and water pipes therein before possession is taken for the purpose of constructing such way, in like manner as if it had been actually constructed. Such entry shall not be deemed an entry for the purpose of constructing the way, and, until such way has been constructed, sewer assessments shall be levied only upon the estates of persons connecting their drains with such sewers. If such laying out, alteration or widening becomes void under the provisions of section ninety-two, all sewers or water pipes so laid therein shall be deemed to have been legally laid and placed therein; and damages may be recovered therefor in the manner provided in the case of laying of sewers or water pipes in private lands; and the right to recover the same shall accrue when such laying out, alteration or widening becomes void.

Laying of sewers, etc., in unaccepted ways.
1893, 65.

SECTION 73. If the location or alteration of a private way is desired in a town for the use of one or more persons who are not inhabitants thereof, or if the location or alteration of a private way lying partly in one town and partly in another is desired, the county commissioners may cause such way to be located or altered, in the manner provided when the selectmen or road commissioners refuse to lay out a private way.

Commissioners may lay out, when.
1837, 164.
G. S. 43, § 66.
P. S. 49, § 72.

SECTION 74. If the selectmen or road commissioners unreasonably refuse or neglect to lay out or alter a town way or private way when requested in writing by one or more of the inhabitants of a town, the county commissioners, on the petition in writing of a person aggrieved, filed within one year after such request, may lay out or alter such way, and may determine its boundaries and measurements and estimate the damages sustained by any person by reason thereof. Such damages, with costs of the proceedings, shall be paid by the town, if it is a town way. If it is a private way, the damages and costs, or such part thereof as the county commissioners consider reasonable, shall be paid by the persons

Proceedings when selectmen unreasonably refuse.
1713-14, 8, § 2.
1746-7, 10.
1786, 67, § 2.
R. S. 24, § 71.
G. S. 43, § 67.
P. S. 49, § 73.
3 Met. 312.
9 Met. 423.
12 Met. 208.
7 Cush. 395.
11 Cush. 189.
4 Gray, 414.
173 Mass. 48.

for whose use it was laid out or altered, and the residue, if any, by the town.

Appeal if towns refuse to accept ways.
1736-7, 14.
1786, 67, § 3.
R. S. 24, § 72.
G. S. 43, § 68.
P. S. 49, § 74.
8 Greenl. 271.
2 Mass. 118.
3 Mass. 188.
9 Met. 423.
5 Allen, 13.

SECTION 75. If a town unreasonably refuses or delays to approve and allow a town way or private way laid out or altered by the selectmen or road commissioners, and to put the same on record, any person aggrieved thereby may within one year thereafter apply by petition in writing to the county commissioners, who, unless sufficient cause is shown against such application, may approve and allow the way as laid out or altered by the selectmen or road commissioners, and may direct the laying out or alteration and acceptance to be recorded by the clerk of such town, which shall have like effect as if accepted by the town.

Commissioners may complete town ways laid out by them, when.
1846, 222, §§ 1, 2.
G. S. 43, § 69.
P. S. 49, § 75.

SECTION 76. If a town in which a town way or private way has been laid out, altered or approved in pursuance of the provisions of the three preceding sections does not make and complete the same in the manner prescribed by the county commissioners, and to their acceptance, within six months after it has been laid out, altered or approved, or within the time directed by them, they shall, forthwith, cause such way to be completed, and the expenses, interest and charges thereof shall be determined and paid in the manner provided in sections fifty-four and fifty-five.

Refusal to discontinue.
1764-5, 6.
1786, 67, § 2.
R. S. 24, § 73.
G. S. 43, § 70.
P. S. 49, § 76.

SECTION 77. Upon the application in writing of a person aggrieved by the refusal of a town to discontinue a town way or private way, the county commissioners may order such way to be discontinued.

When towns cannot lay out, etc.
R. S. 24, § 74.
G. S. 43, § 71.
P. S. 49, § 77.
2 Pick. 44.

SECTION 78. If a town way has been laid out or altered by the county commissioners, it shall not within two years thereafter be discontinued or altered by the town; and if such way has been discontinued by the county commissioners, the town shall not within two years thereafter lay out the same again.

Recognizance for costs. Notice.
1827, 77, § 13.
R. S. 24, § 75.
G. S. 43, § 72.
P. S. 49, § 78.
9 Met. 423.

SECTION 79. If an application is made to the county commissioners in consequence of the refusal or neglect of selectmen or road commissioners to lay out or alter a town way or private way, or in consequence of the refusal or neglect of the town to accept and allow such way when laid out or altered by the selectmen or road commissioners, or if such application is made for the discontinuance of a town way or private way, they shall cause a like recognizance to be given to the county as is required in applications for highways; and like proceedings may be had on such recognizance. They shall also cause notice to be given, before they proceed to view or to hear the parties, as in the case of highways.

Jury or committee to ascertain damages. Costs.
1785, 75, § 7.
1786, 67, § 1.
R. S. 24, §§ 68, 76.
1842, 86.
1849, 200.
G. S. 43, § 73.
1870, 75, § 2.

SECTION 80. A person aggrieved by the assessment of his damages occasioned either by the laying out, relocation, widening, alteration or discontinuance of a town way or private way, or by an order for specific repairs, or of the amount awarded him as indemnity therefor, may have the matter of his complaint determined by a jury, which may be applied for within such time as is specified for such purpose in section twenty-eight. Such application may be

made either to the county commissioners or to the superior court as provided in section one hundred and nine. Upon such application to the county commissioners, an order for a jury shall be made by them or, by agreement of the parties, the matter may be determined by a committee to be appointed by the county commissioners; and the jury or committee shall have the same powers, and the proceedings in all respects shall be conducted in the same manner, as before provided in like cases relative to highways. If the damages are increased, the damages and all charges shall be paid by the town; otherwise the charges arising on such application shall be paid by the petitioner or recognizor as aforesaid.

P. S. 49, § 79. 1892, 415, § 2. 3 Met. 312. 10 Met. 465. 6 Cush. 245. 11 Cush. 388, 487. 4 Gray, 360. 5 Gray, 31, 65, 421. 9 Gray, 341. 12 Gray, 210. 13 Gray, 553. 103 Mass. 136. 114 Mass. 548. 116 Mass. 165. 117 Mass. 79. 119 Mass. 95. 122 Mass. 338. 137 Mass. 257.

147 Mass. 618. 159 Mass. 93. 177 Mass. 543.

SECTION 81. When a town way or private way is laid out or altered by the selectmen or road commissioners or by the county commissioners, they shall in their report or return thereof specify the manner in which such way is laid out or altered and shall transmit to the clerk a description of the location and bounds thereof, which shall, within ten days, be recorded by him in a book kept for that purpose; and they shall allow the owner of the land through which the way passes a reasonable time to take off his trees, fences and other property which may obstruct the building of such way, and give him notice thereof. If he neglects to remove the same within the time allowed, he shall be deemed to have relinquished his right thereto for the benefit of the town, if the way is a town way; and if it is a private way, for the benefit of such person as the selectmen, road commissioners or county commissioners may determine; but any buildings or materials upon the land shall be disposed of in the manner required by section sixteen.

Contents and record of report of lay out; removal of trees. 1848, 98, §§ 1, 2. 1859, 132, §§ 1, 2, 4. G. S. 43, § 74. P. S. 49, § 80. 114 Mass. 548. 151 Mass. 28.

SECTION 82. If a jury is ordered to assess the damages done by the location or alteration of such way, they may extend the time for the owner of the land to remove his trees, fences and other property; and if he neglects to remove the same within such extended time, he shall be deemed to have relinquished his claim thereto.

Extension of time for removal. 1848, 98, § 3. G. S. 43, § 75. P. S. 49, § 81. 151 Mass. 28.

SECTION 83. No town shall contest the legality of a way laid out by it and accepted and recorded as provided in this chapter.

Towns not to contest legality of ways. R. S. 24, § 77.

G. S. 43, § 76. P. S. 49, § 82. 9 Gray, 341.

FOOTWAYS.

SECTION 84. Cities and towns may lay out footways for the use of the public in the manner provided for the laying out of town ways.

Footways. 1874, 299. P. S. 49, § 83. 108 Mass. 196. 120 Mass. 300.

RESERVED SPACES IN PUBLIC WAYS.

SECTION 85. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the board or officers authorized to lay out streets, highways or town ways may, whether any such street or way is laid out under the provisions of law authorizing the assessment of betterments or otherwise, reserve spaces between the side lines thereof for the use of horseback riders, for bicycle paths or for street railways, except such as may be operated by steam, for drains, sewers and electric wires, for trees and grass, and for planting.

Reserved spaces in public ways. 1894, 324.

Bicycle Paths.

Bicycle paths.
1898, 351

SECTION 86. The board or officers authorized to lay out streets, highways or town ways in cities and towns may, subject to the provisions of law relative to the laying out, construction and maintenance of streets or ways, lay out, construct and maintain bicycle paths.

— penalty for trespassing thereon.
1899, 474.

SECTION 87. Whoever trespasses upon bicycle paths named in the two preceding sections by driving thereon with a horse or other animal, except to cross the same, shall be punished by a fine of not more than twenty dollars for each offence; but the aldermen in cities and selectmen in towns may prescribe limits within which the provisions of this section shall not apply.

WAYS IN THE COUNTY OF SUFFOLK.

Street commissioners of Boston.
1821, 109, § 11.
R. S. 24, § 54.
1842, 86.
1854, 448, § 33.
G. S. 43, § 77.
1870, 337, § 2.
1878, 75, § 1.
P. S. 49, § 84.
1888, 397.
22 Pick. 80.
2 Met. 225.
102 Mass. 22.
106 Mass. 97.
140 Mass. 88.

SECTION 88. The board of street commissioners of the city of Boston may lay out, relocate, alter, widen or discontinue highways in the city of Boston and order specific repairs thereon, and if they are of the opinion that the public necessity and convenience require that a highway shall be laid out in said city, or that an existing highway shall be relocated, altered, widened or discontinued, or that specific repairs shall be ordered thereon, they shall appoint a time for a public hearing and shall cause a notice thereof and of their intention in the matter to be published once in each of two successive weeks in two daily newspapers published in said city, the last publication to be at least seven days previous to the time fixed for the hearing. Said hearing may be adjourned from time to time, if the commissioners consider it necessary; and, after said hearing, they shall determine what action relative to said way the public necessity and convenience require; and such determination, being recorded in the records of said commissioners, the said way shall be thereby laid out, relocated, altered, widened or discontinued, or specific repairs shall be ordered, in accordance with such determination.

— to estimate damages.
G. S. 43, § 78.
1878, 75, § 1.
P. S. 49, § 85.
1888, 397.

SECTION 89. Said commissioners shall estimate the amount of damages sustained by any persons in their property by such laying out, relocation, alteration, widening or discontinuance, or ordering specific repairs on, a highway, and, in their determination, shall state the share of each separately.

Application for jury to superior court. View.
1821, 109, § 8.
R. S. 24, § 55.
1849, 200.
G. S. 43, § 79.
1870, 75, § 2.
1878, 75, § 2.
P. S. 49, § 86.
1888, 397.
1892, 415, § 3.
20 Pick. 201.

SECTION 90. The damages sustained in any case described in the preceding section shall be paid by the city of Boston, and said city or any party interested may, within the time specified for a like purpose in section twenty-eight, file a petition for a jury in the superior court for the county of Suffolk, and thereupon, after such notice as the court shall order, a trial shall be had in said court in the same manner as other civil cases are there tried by jury and on request of either party, the jury shall take a view.

2 Met. 225. 14 Gray, 214. 99 Mass. 236.
12 Gray, 209. 3 Allen, 538. 106 Mass. 553.

SECTION 91. The county commissioners of Middlesex shall have the same powers and duties in the towns of Revere and Winthrop in the county of Suffolk, relative to highways and other ways, as they have in the towns in the county of Middlesex; and the proceedings for the assessment and award of damages and indemnity shall be the same as are hereinbefore provided. But if a jury is applied for or committee agreed upon in any matter relative to a way, the warrant therefor shall be directed to the sheriff or his deputy, or to the special sheriff, of the county of Suffolk, and the proceedings thereon shall be the same as are had upon such warrants in other counties. The verdict of the jury or the report of the committee shall be returned to the superior court.

Commissioners of Middlesex, powers of, in Suffolk.
1851, 336, §§ 1, 2.
1853, 295.
G. S. 43, § 80.
1872, 87, § 1.
P. S. 49, § 87.
1898, 217, § 3.
See c. 20, § 34.

RIGHTS OF LAND OWNER IF POSSESSION IS NOT TAKEN OR ACTUAL NOTICE GIVEN.

SECTION 92. The laying out or alteration of any way under the provisions of this chapter shall be void as against the owner of any land over which the same is located, unless possession is taken of such land, for the purpose of constructing or altering such way, within two years after the right to take such possession first accrues; or, if a different time is agreed upon by the authorities laying out such new way or making such alteration and all the owners of the land over which such way as laid out or altered extends, such time shall be specified in the return or report of such laying out or alteration, which shall become void, as before provided, only in case possession is not taken for the purpose of constructing such way within the time thus agreed and specified; but an entry for the purpose of constructing any part of the laying out or alterations shall be deemed a taking of possession of all the lands included in the laying out or alterations.

Laying out way, etc., when to be void.
1862, 203.
1863, 108.
1869, 303, § 1.
P. S. 49, § 88.
1893, 82.
98 Mass. 498.
101 Mass. 441.
122 Mass. 342.
141 Mass. 317.
150 Mass. 350.
164 Mass. 23.
173 Mass. 48.

SECTION 93. A person aggrieved by the indemnity awarded to him, or by the assessment of his damages, who omits to file his petition for a jury within one year, and who has not received, at least sixty days before the expiration of such year, actual notice of the proceedings whereby he is entitled to such damage or indemnity, may, within six months after his land has been actually entered upon for the construction or alteration of a way or after the actual closing of a way upon discontinuance, file a petition in the superior court for the assessment of his damages by a jury, and the order of notice on such petition shall be returnable on the return day occurring next after thirty days therefrom.

Extension of time for petition for jury.
1874, 341.
P. S. 49, §§ 89, 90.
147 Mass. 618.

WAYS IN CITIES.

SECTION 94. The provisions of the preceding sections, so far as applicable, shall apply to cities, except as may be otherwise provided by their charters or by special laws; but every application for a jury to assess damages may, notwithstanding any other provision in such charters or laws, be made within the time specified in section twenty-eight.

Provisions of chapter extend to cities.
G. S. 43, § 81.
P. S. 49, § 91.
1892, 415, § 4.
3 Allen, 538.
122 Mass. 342.
123 Mass. 543.
164 Mass. 23.

WAYS DEEMED TO BE LAID OUT UNDER THIS CHAPTER, UNLESS OTHERWISE EXPRESSLY DECLARED.

Lay out of ways under this chapter. 1874, 275, § 1. P. S. 49, § 92. 111 Mass. 294.

SECTION 95. Ways may be laid out, constructed, altered, widened, graded or discontinued under the provisions of this chapter, notwithstanding the acceptance by a city or town of any statute authorizing the assessment upon estates benefited of a portion of the cost of such ways.

Ways deemed to be so laid out, unless order otherwise declares. 1874, 275, § 2. P. S. 49, § 93.

SECTION 96. Every highway or town way shall be deemed to be laid out under the provisions of this chapter, unless the order laying out the same expressly declares it to be laid out under the provisions of law authorizing the assessment of betterments.

123 Mass. 289. 151 Mass. 264.

RECORD OF LAND TAKEN FOR HIGHWAY PURPOSES.

Record of land taken. 1898, 134.

SECTION 97. The boards, officers or other authority which purchases or takes land for street or highway purposes shall, within sixty days after the passage of its order or vote to take or purchase such land, cause a description and plan thereof to be filed for record in the registry of deeds for the county or district in which the land lies.

DEDICATION OF WAYS.

Ways not chargeable unless, etc. 1846, 203, § 4. G. S. 43, § 82. P. S. 49, § 94. 19 Pick. 405. 4 Cush. 332.

SECTION 98. Ways opened and dedicated to the public use, which have not become public ways, shall not, except as provided in the following section, be chargeable upon a city or town as a highway or town way unless laid out and established in the manner prescribed by statute.

8 Cush. 195. 5 Gray, 73. 7 Gray, 343.
12 Gray, 419. 108 Mass. 196. 122 Mass. 60. 139 Mass. 336.
16 Gray, 228. 110 Mass. 62. 126 Mass. 540. 143 Mass. 521.
1 Allen, 153. 112 Mass. 346. 128 Mass. 63. 150 Mass. 255.
3 Allen, 398. 120 Mass. 300, 401. 131 Mass. 143. 173 Mass. 455.

Selectmen, etc., to close dedicated ways, etc. 1846, 203, §§ 2, 3. G. S. 43, § 83. P. S. 49, § 95. 3 Allen, 398. 102 Mass. 489. 108 Mass. 196, 205. 112 Mass. 362. 126 Mass. 540.

SECTION 99. The mayor and aldermen and selectmen or road commissioners shall, if the public safety so requires, cause such ways to be closed where they enter upon and unite with an existing public way or may by other sufficient means caution the public against entering thereon; otherwise the city or town shall be liable for damages arising from defects therein as in the case of ways duly laid out and established.

138 Mass. 564. 139 Mass. 336. 150 Mass. 256. 173 Mass. 455.

Abutters on streets dedicated to the public, to keep same in safe condition. 1853, 315, §§ 1, 4. G. S. 43, § 84. 1867, 241. P. S. 49, § 96. 1 Allen, 150.

SECTION 100. If the owner of a lot abutting upon a street or way in a city dedicates to the public or permits it to use a portion of his land lying between said street or way and a building fronting on the same, he shall keep such portion in such condition as, in the opinion of the board of aldermen, the safety and convenience of the public requires; and if he, after reasonable notice given by the board of aldermen or mayor, neglects or refuses to make the specific repairs or improvements so required, or to close the same to public use by a substantial railing or guard, said board of aldermen may put said land into such condition and assess the expense thereof upon the owner; and all assessments so made shall be a lien upon such abutting lots in the same manner as taxes are a lien upon real estate.

ASCERTAINMENT OF LOCATION.

SECTION 101. Upon the representation of ten or more freeholders to the mayor and aldermen of a city or to the selectmen or road commissioners of a town that the exact location of a way, over which they have jurisdiction, cannot be readily ascertained, they shall, after giving the notice required in laying out a similar way, ascertain the correct location, erect the necessary bounds and file a certificate thereof for record, as provided in sections eighty-one and one hundred and four.

Ascertainment of uncertain location of way. 1859, 132, § 4. G. S. 43, § 87. P. S. 49, § 97. 4 Allen, 488.

SECTION 102. Upon the representation of ten or more freeholders in any county to the county commissioners that the exact location of a common landing place in such county cannot be readily ascertained, they shall, after giving the notice required in laying out highways, ascertain the correct location of such landing place, erect the necessary bounds thereof and make a record thereof in the manner provided in the case of laying out highways.

Ascertainment of common landing place. 1882, 109.

BUILDING LINE.

SECTION 103. If the city council of a city or if a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, a building line parallel to, and not more than twenty-five feet distant from, the exterior line of a highway or town way may be established in the manner provided for laying out ways, and thereafter no structures shall be erected or maintained between such building line and such way, except steps, windows, porticos and other usual projections appurtenant to the front wall of a building, to the extent prescribed in the vote establishing such building line. Whoever sustains damage thereby shall have the same remedies therefor as for damages sustained by the laying out of a town way.

Building line. 1893, 462.

ERECTION OF MONUMENTS.

SECTION 104. The county commissioners, mayor and aldermen, selectmen or road commissioners, shall cause permanent bounds to be erected at the termini and angles of all ways laid out by them. Such bounds shall be of stone, not less than three feet long, two feet of which at least shall be set in the ground, or of stone not less than three feet long with holes drilled therein and filled with lead placed a few inches below the travelled part of the way, or if stone bounds are impracticable, a heap of stones, a living tree, a permanent rock, or the corner of an edifice, as said officers may determine. If they neglect to establish such monuments after being notified so to do by an owner of land abutting on such way, the county or city if it is a highway or street or the town if it is a town way, shall forfeit to him fifty dollars for each month during which such neglect continues.

Erection of monuments. 1848, 192. 1855, 95. 1859, 132, § 3. G. S. 43, § 88. P. S. 49, § 98. 7 Cush. 394. 7 Gray, 465.

TAKING OF MATERIALS FOR WAYS.

SECTION 105. The mayor and aldermen of cities, and the selectmen or road commissioners of towns, may select and lay out land within their respective cities or towns, not appropriated to public uses or owned by any other city or town from which may be taken

Taking of road material. 1869, 237, §§ 1, 2. P. S. 49, §§ 99, 100. 1899, 85. 126 Mass. 177.

materials necessary for the construction, repair or improvement of streets or ways; and may lay out such ways as they consider necessary for convenient access thereto. All proceedings relative to such land and ways shall be the same as are provided in the laying out of town ways; and the report of such laying out shall specify the extent and depth of excavation to be permitted and the time, not exceeding ten years, during which such land or way shall be held and used. A person aggrieved in the assessment of his damages for land so taken may, on application within one year, have a jury in the manner provided by law in cases of highways.

Land, how to be used, and when to revert. 1869, 257, § 3. P. S. 49, § 101.

SECTION 106. Land so taken shall be held and used for no other purpose than is specified in the preceding section, and shall revert to the owner or his heirs or assigns at the expiration of the time limited; and the owner may, during such time, enclose, occupy and use such land in any manner consistent with its use for said purpose.

DAMAGES CAUSED BY TAKING LAND FOR PUBLIC USES.

Assessment of damages for taking water, etc., to be subject to certain provisions. 1874, 388, §§ 1, 2. P. S. 49, §§ 102, 103.

SECTION 107. The provisions of sections seventeen to twenty-five, inclusive, shall apply in all proceedings for the assessment of damages sustained by the taking of any water, land, rights of way, water rights or easements, or by the erection of a dam or the construction of an aqueduct, reservoir, water-way or of any other works for the purpose of supplying water to a city or town, and any party in interest may apply for the assessment of such damages.

Certain sections to apply to all cases of exercise of right of eminent domain, etc. 1875, 117, § 4. P. S. 49, § 104.

SECTION 108. The provisions of sections seventeen, nineteen, and twenty-six shall apply to all cases in which provision is made that damages shall be assessed in the manner provided in the laying out of highways; but the limitation as to the time within which proceedings shall be commenced shall be the same as are provided in the various cases of the exercise of the right of eminent domain; and the right of the trustees named in said sections to petition shall not accrue until the tenant in possession neglects so to petition for one-half of the period limited.

Assessment of damages by superior court. 1873, 261. 1876, 22. 1881, 122. P. S. 49, §§ 105, 107. 1894, 175. 1900, 299. 117 Mass. 76. 119 Mass. 485. 126 Mass. 287. 127 Mass. 571. 139 Mass. 172, 214. 143 Mass. 192. 149 Mass. 329. 174 Mass. 406. 176 Mass. 118.

SECTION 109. The superior court shall have jurisdiction to hear and determine all petitions which may be filed therein for the assessment by a jury of damages sustained by any person by reason of any taking of property in the exercise of the right of eminent domain, although no application to, nor award by, county commissioners shall be made prior to the filing of such petition. If such petition is filed after an award has been made by the county commissioners and the damages are increased, or if no award by them has been made and damages are awarded by the jury, the petitioner shall, unless otherwise expressly provided, recover costs; otherwise he shall pay costs. Such petition to the superior court may be made in any case in which a sheriff's jury may be had, and the court may appoint an auditor as in other civil cases.

Land damages in Dukes County and Nantucket. 1887, 50.

SECTION 110. If land or any interest therein is taken by a town in the county of Dukes County, or of Nantucket, or by either of said counties, any person who is aggrieved by the award of damages

therefor, may apply for a jury by petition to the superior court in the county in which the land lies or to the superior court for the county of Bristol.

Petitions for land damages may be filed with clerk. 1874, 283, § 1. 1875, 223, § 1. P. S. 49, § 106.

SECTION 111. Petitions to the county commissioners relative to highways and town ways or for the assessment of damages for the taking of land for other public purposes, or for a jury, may be filed with and the recognizance taken by the clerk of said commissioners at any time, and such filing shall be the commencement of proceedings.

Discontinuance of proceedings to recover land damages regulated. 1880, 141. P. S. 49, § 108. 125 Mass. 483.

SECTION 112. No petition, suit, appeal or other proceeding in the supreme judicial court or in the superior court taken or instituted by any party aggrieved by the award of damages caused by laying out, making and maintaining a railroad or by taking land or materials therefor, or by the laying out, alteration or discontinuance of a highway, town way or private way, or by taking land or materials therefor, shall be discontinued except by leave of court or by agreement of all the parties thereto; and any party thereto may prosecute the same as if it had been begun by him.

Jury for party liable for damages awarded by commissioners. 1881, 7. P. S. 49, § 109.

SECTION 113. Any party liable to pay damages which have been assessed by county commissioners for land or for any interest therein taken under authority of law, if dissatisfied with such assessment, shall have the same right to have the matter determined by a jury as the party to whom said damages are payable.

Proceedings when mortgaged land is taken. 1881, 110. P. S. 49, § 110. 140 Mass. 403.

SECTION 114. If mortgaged land is taken for public uses under authority of law, both mortgagors and mortgagees, in addition to their rights under the mortgage, shall have the same powers, rights and privileges and be subject to the same liabilities and duties as are provided in sections one hundred and twelve and one hundred and thirteen of chapter one hundred and eleven in the case of mortgaged lands so taken by railroad corporations.

CHAPTER 49.

OF SEWERS, DRAINS AND SIDEWALKS.

SECTIONS 1–36. — Sewers and Drains.
SECTIONS 37–41. — Private Drains and Sewers.
SECTIONS 42–45. — Sidewalks.

SEWERS AND DRAINS.

Cities and towns may lay drains or sewers. 1841, 115, §§ 1, 6. 1857, 225, § 1. G. S. 48, §§ 1, 3. 1869, 111, § 1. 1871, 158, § 2. 1873, 51. P. S. 50, § 1. 1890, 124. 1893, 304, § 2; 423, § 24.

SECTION 1. The mayor and aldermen of a city and the sewer commissioners, selectmen or road commissioners of a town may lay, make, repair and maintain all such main drains or common sewers as they adjudge necessary for the public convenience or the public health, in public or private ways or in the land of any person, and may take land which may be necessary therefor. Main drains and common sewers so laid shall be the property of the city or town. Cities and towns may with the approval of the state board of health,

4 Allen, 41.
8 Allen, 127.
104 Mass. 13.
122 Mass. 255, 359.
124 Mass. 564.

after a public hearing by said board of all parties interested, of which notice shall be given by publication in one or more newspapers, purchase or take land within their respective limits for the purification and disposal of sewage.

126 Mass. 431. 128 Mass. 396. 134 Mass. 476. 146 Mass. 298, 336. 150 Mass. 12. 151 Mass. 184. 159 Mass. 324. 163 Mass. 303.

Taking of land and damages.
1857, 225, § 2.
G. S. 48, § 2.
1869, 111, §§ 2, 3.
P. S. 50, §§ 2, 3.
1898, 134.
108 Mass. 208.
110 Mass. 216.
113 Mass. 218.
117 Mass. 396.
127 Mass. 507.
131 Mass. 325, 387.
144 Mass. 139.
164 Mass. 1.

SECTION 2. If land is taken or if damages are occasioned under the provisions of the preceding section, the proceedings for the taking and for the ascertainment and recovery of damages shall be the same, in cities, as in the laying out of streets, and, in towns, as in the laying out of town ways. A description and plan of the land so taken or purchased shall, within sixty days after the passage of the order or vote under which the land was taken or purchased, be filed for record by the city, town or other authority taking or purchasing the same in the registry of deeds for the county and district in which the land lies.

Persons entering drains into main drain to be assessed, etc.
1841, 115, § 2.
G. S. 48, § 4.
1878, 232, § 1.
P. S. 50, § 4.
1893, 423, §§ 23, 24.
9 Cush. 233.
99 Mass. 633.
111 Mass. 123.
112 Mass. 542.
117 Mass. 363.
118 Mass. 168.
120 Mass. 108, 297.
128 Mass. 282.

SECTION 3. A person who enters his particular drain into such main drain or common sewer, or who, by more remote means, receives benefit thereby for draining his land or buildings, shall pay to the city or town a proportional part of the charge of making and repairing the same, and of the charge, not already assessed, of making and repairing other main drains and common sewers through which the same discharges, which shall be ascertained, assessed and certified by the mayor and aldermen, sewer commissioners, selectmen or road commissioners; and notice thereof shall be given to the person charged, or to his tenant or lessee.

132 Mass. 42. 139 Mass. 328, 384. 143 Mass. 585. 150 Mass. 12.

Assessment by a jury.
1841, 115, § 4.
G. S. 48, § 6.
P. S. 50, § 6.
9 Cush. 233.
117 Mass. 78.

SECTION 4. A person aggrieved by such assessment may, at any time within three months after receiving notice thereof, apply for a jury for a revision thereof. Such application shall be made in like manner and the proceedings thereon shall be the same as in case of land taken for laying out highways; but before making his application he shall give one month's notice in writing to the mayor and aldermen or the sewer commissioners, selectmen or road commissioners, of his intention so to apply, and shall therein specify particularly his objections to the assessment; to which specification he shall be confined upon the hearing by the jury.

Cities, etc., may adopt system of sewerage.
1878, 232, § 3.
1879, 55.
P. S. 50, § 7.
1894, 528.
110 Mass. 433.
136 Mass. 179.
139 Mass. 384.
150 Mass. 12.
163 Mass. 23.
172 Mass. 28.
176 Mass. 247.

SECTION 5. The city council of a city or a town may adopt a system of sewerage for a part or the whole of its territory, and may provide that assessments under the provisions of section three shall be made upon owners of land within such territory by a fixed uniform rate, based upon the estimated average cost of all the sewers therein, according to the frontage of such land on any street or way in which a sewer is constructed, or according to the area of such land within a fixed depth from such street or way, or according to both such frontage and area; but no assessment in respect to any such land which, by reason of its grade or level or any other cause cannot be drained into such sewer, shall be made, certified or notified until such incapacity is removed. If the assessment is according to the area within such fixed depth, the lien therefor shall attach to the parcel assessed.

SECTION 6. The mayor and aldermen of any city except Boston, or the sewer commissioners, selectmen or road commissioners of a town may from time to time establish just and equitable annual charges for the use of common sewers, which shall be paid by every person who enters his particular sewer therein. The money so received may be applied to the payment of the cost of maintenance and repairs of such sewers or of any debt contracted for sewer purposes.

Charges for use of sewers. 1892, 245, § 1. 175 Mass. 242.

SECTION 7. The mayor and aldermen of any city except Boston, or a town in which main drains or common sewers are laid may determine that, instead of paying an assessment under the provisions of section three, a person who uses such main drains or common sewers in any manner shall pay for the permanent privilege of his estate such reasonable amount as the mayor and aldermen or the sewer commissioners, selectmen or road commissioners shall determine. A person aggrieved by such determination of the amount so to be paid by him may, within six months after notice of such determination, apply to the county commissioners for a revision thereof. If they reduce the amount, the city or town shall pay the costs of the application and hearing; otherwise the applicant shall pay them.

Payment for sewer privileges in lieu of assessments. 1878, 184, §§ 1, 2. P. S. 50, §§ 8, 9.

SECTION 8. The city council of a city or a town which itself is, or the officers of which are, entitled, under the provisions of sections three, five, six and seven or under any special act, to assess upon land the whole or a part of the cost of laying, making, maintaining or repairing main drains or common sewers, may determine that such assessments shall be made by two or more of the methods provided in said sections or special acts, and may determine what part of the expense or estimated average cost shall be paid by each of said methods.

Method of assessment, how determined. 1892, 245, § 2.

SECTION 9. The mayor and aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may extend the time for the payment of such assessments upon land which is not built upon, until it is built upon or for a fixed time; but interest at a rate not less than said city or town pays upon any loan for sewer purposes shall be paid annually upon the assessment from the time it was made, and the assessment shall be paid within three months after such land is built upon or at the expiration of such fixed time. If any assessment is invalid by reason of error or otherwise, it may be abated or reassessed.

Payment of assessments on vacant land. 1892, 245, § 3.

SECTION 10. The owners of land or parts thereof not liable to assessment, or not in fact assessed, may use the common sewers for the disposal of their sewage from such land only on payment of such reasonable amount as the mayor and aldermen or the sewer commissioners, selectmen or road commissioners shall determine.

Use of sewers for estates not assessed. 1892, 245, § 3.

SECTION 11. If land abuts upon more than one street or way, assessments for sewers based wholly or in part upon frontage shall be assessed upon the frontage upon one such street or way and upon so much of the frontage upon such other street or way as is not ex-

Assessments upon land abutting on two streets. 1892, 245, § 5.

empted by the board whose duty it is to make the assessment; and such board may exempt from assessment so much of the frontage upon such other street or way as they consider just and equitable.

Particular sewers. 1892, 245, § 4.

SECTION 12. The mayor and aldermen of a city and the sewer commissioners, selectmen or road commissioners of a town may lay, make and maintain particular sewers from common sewers to the street line, which shall be the property of the city or town. The owner of any land benefited thereby shall pay to the city or town for the permanent privilege of using the same, such reasonable amount as said boards determine, which may be fixed at the estimated average cost of all such particular sewers within the territory for which a system of sewers has been built or adopted. Said boards may, upon request of the owner of land and payment by him of the actual cost thereof, construct a particular sewer from the street line to a house or building; and may make regulations for the construction and use of all particular sewers and impose penalties not exceeding twenty dollars for their violation.

Laying of drains in private ways. 1895, 227.

SECTION 13. If a city ordinance or a town by-law provides that any drain or sewer laid in any land, street or way, public or private, which is opened or proposed to be opened for public travel and accommodation, shall be a main drain or common sewer, and such drain or sewer is laid in a private way or land at the expense of the owner thereof, he shall not be liable to an assessment for such drain or sewer, except for the cost of connecting it with common drains or sewers already established.

Apportionment of sewer assessments. 1878, 249. P. S. 50, § 25.

SECTION 14. If in a city or town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws the owner of land, within sixty days after notice of a sewer assessment thereon, notifies in writing the assessors to apportion the same, they shall apportion it into three equal parts and shall add one of said parts with interest from the date of the apportionment to the annual tax of said land for each year next ensuing until all parts have been so added.

Same subject. 1891, 97. 1893, 380. 1897, 274.

SECTION 15. If in a city or town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the owner of land therein, within thirty days after notice of a sewer assessment thereon, or of any charges made for entering or using any public sewer, notifies in writing the assessors to apportion the same, they shall apportion it into such number of equal parts, not exceeding ten, as the owner shall in said notice request. The assessors shall add one of said parts with interest from the date of apportionment to the annual tax of said land for each year next ensuing until all parts have been so added.

Division of sewer assessments. 1897, 138, §§ 1, 2.

SECTION 16. If land which is subject to a lien for a sewer assessment is so divided by sale, mortgage or otherwise that said lien affects the land owned in severalty by two or more persons, the assessors, at any time before proceedings have been taken to enforce the lien, shall, upon the written request of the owner in fee or in mortgage of a portion thereof, accompanied by a plan sufficient for

the identification of the division of the whole estate, with the names of the different owners thereof, divide said sewer assessment and the costs and interest accrued thereon, among the several parcels into which said land has been divided, assessing upon each parcel the respective proportion of the amount of the original assessment then due.

Notice of division.
1897, 138, § 3.

SECTION 17. The assessors shall mail a notice of such request and of the time appointed for such division to the address, so far as known to them, of all persons interested in said land who have not waived notice.

On division, part of assessment to be a lien.
1897, 138, § 5.

SECTION 18. After such assessment has been so divided, the proportion only of said assessment, interest and costs apportioned upon each several parcel of said land shall be a lien thereon and no owner or mortgagor shall thereafter be liable for the assessment so apportioned upon any parcel not owned by him, but the lien shall be valid for the amount of each apportionment upon the several parcels upon which it is apportioned.

Division of apportioned assessments.
1897, 138, § 6.

SECTION 19. If a sewer assessment apportioned into instalments has been divided under the provisions of the three preceding sections, the amount apportioned to each parcel shall be payable upon the same conditions of time, interest and charge as the original assessment.

Appeals.
1897, 138, § 4.

SECTION 20. A person aggrieved by any action of the assessors under the provisions of the four preceding sections, may, within seven days thereafter, appeal to the board to whom appeal may be taken from the original assessment, and the action of said board upon such appeal shall be final.

Assessments, interest on.
1878, 249.
P. S. 50, § 25.
1891, 97.
1893, 380.
1896, 251, § 2.
1897, 151, 274.

SECTION 21. The city council of a city or a town may vote that all assessments and charges for the construction and use of sewers shall bear interest at a specified rate, not exceeding seven per cent per annum, from the thirtieth day after such assessments or charges become due until paid; and the interest accruing under such vote or votes shall be added to and be a part of such assessments and charges.

—collection of.
1841, 115, § 3.
G. S. 48, § 5.
1878, 184, § 3.
P. S. 50, §§ 5, 10, 25.
1883, 145.
1891, 97.
1892, 245, § 1.
1893, 380.
1896, 236; 251, § 1.
1897, 274.
114 Mass. 544.

SECTION 22. Demand for the payment of sewer assessments or charges may be made in like manner as demands for the payment of taxes, and sales for the non-payment of such assessments or charges and all proceedings connected therewith shall be made upon the same notices thereof, and shall be otherwise conducted in the same manner as sales for non-payment of taxes; and all proceedings subsequent to such sales, relative to redemption, the purchase and holding of the land by the city or town, the interest to be paid in case of redemption, and otherwise, shall be the same as when land is sold for taxes. Said assessments and charges may also be collected by an action of contract in the name of the city or town.

—a lien.
1841, 115, § 3.
G. S. 48, § 5.

SECTION 23. All assessments and charges for main drains and common sewers, whether in the nature of assessments or charges

1878, 184, § 3; 249. P. S. 50, §§ 5, 10, 25. 1886, 210. 1891, 97. 1893, 380. 1895, 117. 1896, 236. 1897, 274. 114 Mass. 544. 119 Mass. 294. 120 Mass. 297.

for the use of such sewers or annual charges or otherwise upon any land which abuts upon a street in which such sewer is laid or otherwise, shall constitute a lien upon said land. The lien shall continue for two years after the assessments or charges have been committed to the collector, or if they are to be paid by instalments, for two years after the last instalment has been committed to the collector unless sooner paid. Any balance of said assessments or charges remaining unpaid may be paid at any one time, notwithstanding a prior apportionment.

Plans of drains and record of assessments. 1878, 232, § 2. P. S. 50, § 14.

SECTION 24. Plans and descriptions of all main drains and common sewers belonging to a city or town, with a true record of the charges of making and repairing said drains and sewers, and of all assessments therefor, shall be kept in the office of the city or town clerk.

Drains, how constructed. 1709–10, 5, § 2. 1796, 47, § 2. R. S. 27, § 2. G. S. 48, § 9. P. S. 50, § 13.

SECTION 25. All drains and common sewers in a public way shall be substantially made or repaired with brick or stone, or with such other materials and in such manner as the sewer commissioners, selectmen or road commissioners may direct. 122 Mass. 255.

Town may pay part of expense. 1841, 115, § 5. G. S. 48, § 7. P. S. 50, § 11.

SECTION 26. The provisions of this chapter shall not prevent a city or town from providing, by ordinance or otherwise, that a part of the expense of constructing, maintaining and repairing main drains or common sewers shall be paid by such city or town.

Cities, etc., to pay part of expense of laying sewers. 1892, 245, § 9.

SECTION 27. Any city, except Boston, and any town adopting a system of sewerage, which had not, prior to the sixth day of May in the year eighteen hundred and ninety-two, actually laid assessments for the cost of such system, shall pay such portion, not less than one-quarter nor more than two-thirds, of the cost of laying, maintaining and repairing the common sewers as the city council or the sewer commissioners, selectmen or road commissioners may determine.

Adoption of certain provisions. 1892, 245, § 8. 1895, 127. 166 Mass. 498.

SECTION 28. Any city except Boston, and any town, which lays common sewers may, by vote of the city council or of the voters of the town, accept any or all of the provisions of this chapter and, as affecting any debt created for sewer purposes, of section eighteen of chapter twenty-seven, notwithstanding the provisions of any special act to the contrary.

Highways, etc., when may be dug up to lay drains, etc. 1709–10, 5, § 1. 1796, 47, § 1. R. S. 27, § 1. G. S. 48, § 8. P. S. 50, § 12.

SECTION 29. Whoever digs or breaks up the ground in a public way in a town for the laying, altering or repairing of a drain or common sewer, without the consent of the sewer commissioners, selectmen or road commissioners in writing, shall forfeit five dollars for each offence to the use of the town.

Connection with public sewer. 1890, 132. 160 Mass. 282. 162 Mass. 240.

SECTION 30. The board of health of a city or town may require the owner or lessee of any building upon land abutting on a public or private way in which there is a public sewer to connect the same therewith by a sufficient drain, and such owner or lessee who fails or neglects to comply with such order shall be punished by a fine of not more than two hundred dollars.

Connection with public sewers. 1899, 319, § 1.

SECTION 31. A city or town may appropriate money for connecting estates within its limits with public sewers, and no estate shall, in any year in which such an appropriation is made, be connected with a public sewer, except in the manner hereinafter provided. Such city or town may issue its bonds or notes for a term of not more than three years, and use the proceeds thereof to pay the cost of making such connections, and if said bonds and notes are so issued, it shall apply the assessments hereinafter provided for to the payment of such bonds or notes. In the city of Boston, any such appropriation or loan shall be made only within the debt limit established for said city.

— by whom made. 1899, 319, § 2. 1900, 112.

SECTION 32. If the board of health of a city or town making such appropriation shall order land abutting upon a public or private street, court or passage way in which a public sewer has been laid to be connected with such sewer, or if the owner of such land shall make to the board or officer authorized to lay sewers application to connect his land with a public sewer, such board or officer authorized to lay sewers shall make such connection and shall assess the cost thereof upon such land.

Assessments. 1899, 319, §§ 3, 4.

SECTION 33. Such assessments, with interest thereon from the thirtieth day after the completion of such connection to the first day of November of the ensuing year shall be a lien upon the land and shall be added to, and collected as a part of, the annual tax for the ensuing year upon such land. But if the owner thereof shall, within thirty days after notice of such assessment, request in writing the assessors of the city or town to apportion the assessment, they shall apportion the same into not less than three nor more than five equal parts and shall in the ensuing year add one of said parts, with interest on the total assessment from the thirtieth day after the completion of said connection to the first day of November of such ensuing year, to the taxes for that year on such land, and in every year thereafter shall add one of said parts, with one year's interest on the unpaid part of the total assessment, to the taxes for that year on such land, until an amount equal to the entire amount of such assessment with interest from said thirtieth day has thus been added, and each of said parts and interest as aforesaid shall be a lien upon the land and be collected in the same manner as, and as a part of, the taxes upon such land. Such owner may at any time pay any balance of the assessment and interest remaining unpaid.

Advance payments. 1899, 319, § 5.

SECTION 34. A city or town may require that an applicant for a connection of his land with a sewer shall pay in advance an amount equal to the estimated assessment therefor, which shall be applied to the payment of such assessment. The balance, if any, shall be repaid to the applicant.

Repair of private drains. 1893, 312.

SECTION 35. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the board of health may require the owner or lessee of an estate which drains into a private drain in a public or private way to put such drain in good repair and condition. If he

fails to comply with said order within ten days after notice thereof, he shall be punished by a fine of not more than twenty dollars for every day during which such neglect continues.

Use of sewers regulated. 1897, 116, § 2.

SECTION 36. The superior court shall have jurisdiction in equity to restrain the use of the public sewers or the placing or depositing of any materials therein or the making of any unlawful connections therewith.

PRIVATE DRAINS AND SEWERS.

Persons benefited to share expense of making drains, repairing, etc. 1709–10, 5, § 3. 1796, 47, § 2. R. S. 27, § 3. G. S. 48, § 10. P. S. 50, § 15.

SECTION 37. If a person, by the consent and under the direction of the sewer commissioners, selectmen or road commissioners, makes and lays at his own charge a main drain or common sewer for the benefit of himself and of others who join therein, every person who afterward enters his particular drain into the same, or by any more remote means receives benefit thereby for the draining of his land or buildings, shall pay to the owners of such main drain or common sewer a proportion of the cost of making and repairing it, as determined by the sewer commissioners, selectmen or road commissioners of the town, and certified under their hands. A person aggrieved by such determination shall be entitled to a trial by jury, as provided in section four.

— to share expense of removing obstructions, etc. 1753–4, 43, § 1. 1762–3, 27, § 1. 1796, 47, § 3. R. S. 27, § 4. G. S. 48, § 11.

SECTION 38. If it is necessary to open such main drain or common sewer in order to repair it or to remove obstructions, all persons benefited thereby shall pay to the person incurring the expense their proportion thereof, which shall be determined as provided in the preceding section. P. S. 50, § 16.

— refusing to pay their proportions shall pay double the amount, etc. 1753–4, 43, § 1. 1762–3, 27, § 1. 1796, 47, § 3. R. S. 27, § 5. G. S. 48, § 12. P. S. 50, § 17.

SECTION 39. Every such person shall have notice of his proportion and of the person to whom it is to be paid; and if he does not, within seven days after such notice, pay it to the person authorized by the sewer commissioners, selectmen or road commissioners to receive it, he shall pay double the amount certified by them as aforesaid, with all expenses arising from such neglect. The person so authorized may recover the amount in an action of contract in his own name.

Notice before opening drain. 1762–3, 27, § 2. 1796, 47, § 3. R. S. 27, § 6. G. S. 48, § 13. P. S. 50, § 18.

SECTION 40. Whoever has occasion to open such main drain or common sewer in order to clear and repair it, shall, seven days at least before he begins to open it, give notice to all persons interested, by such advertisement as the sewer commissioners, selectmen or road commissioners may direct, and such persons may, in person or in writing, within three days after such notice, enter their objections with the sewer commissioners, selectmen or road commissioners. If the sewer commissioners, selectmen or road commissioners adjudge the objections reasonable, the parties shall not be required to pay any part of such expenses; otherwise the sewer commissioners, selectmen or road commissioners shall in writing permit the persons applying to open such main drain or common sewer, and to clear and repair it; and all persons interested therein shall pay their proportions, to be determined as provided in section thirty-seven.

SECTION 41. The provisions of this chapter shall not affect any covenants or agreements among the proprietors of such drains or common sewers. R. S. 27, § 7. G. S. 48, § 14. P. S. 50, § 19.

Agreements of parties not affected. 1753-4, 43, § 1. 1762-3, 27, § 3.

SIDEWALKS.

SECTION 42. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the mayor and aldermen or the selectmen or road commissioners may, if in their judgment the public convenience so requires, establish and grade sidewalks in the streets and may assess the abutters on such sidewalks one-half the cost thereof, and the residue shall be paid by such city or town. No such sidewalk shall be dug up or obstructed without the consent of the mayor and aldermen of the city, or of the selectmen or road commissioners of the town.

When selectmen, etc., may grade, etc., sidewalks. Expense, how paid. 1855, 43, §§ 1, 2. G. S. 45, §§ 7, 8. P. S. 50, §§ 20, 21.

SECTION 43. If the city council of a city or a town, at an annual meeting, accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the mayor and aldermen or the selectmen or road commissioners may, if in their judgment the public convenience so requires, grade and construct sidewalks and complete partially constructed sidewalks in any street, with or without edgestones, may cover the same with brick, flat stones, concrete, gravel or other appropriate material, and may assess not more than one-half of the costs proportionally upon the abutters on such sidewalks; but no abutter, if the sidewalk was constructed subsequent to the twenty-seventh day of April in the year eighteen hundred and seventy-four and in a city if the city council thereof has accepted the provisions of chapter one hundred and seven of the acts of said year, shall be assessed an amount exceeding one per cent of the valuation of his abutting estate as fixed by the last preceding annual assessment for taxes. The mayor and aldermen, selectmen or road commissioners shall deduct from the assessment for sidewalks so constructed with edgestones and covered any amount previously assessed upon the abutting land, and paid for the cost of the construction in any other manner of such sidewalk; such deduction shall be made proportionally from the assessments upon abutters, who are owners of the land in respect of which such former assessments were paid. Such sidewalks, when so constructed and covered, shall be maintained at the expense of such city or town. In estimating the damage sustained by the construction of such sidewalks, the benefit, if any, to the property of the party by reason thereof shall be allowed in set-off.

When selectmen, etc., may construct brick, etc., sidewalks and edgestones. Expense. 1872, 303, §§ 1-4. 1874, 107, §§ 1, 2. P. S. 50, §§ 22-24. 142 Mass. 200. 166 Mass. 244.

SECTION 44. The mayor and aldermen or the board having power to establish, grade and construct sidewalks in a city may, if in their judgment the public convenience so requires, grade and construct sidewalks and complete any partially constructed sidewalk in any street of such city, with or without edgestones, may cover the same with brick, flat stones, concrete, gravel or other appropriate material, and may assess not more than one-half of the cost proportionally upon the abutters on such sidewalks. Such sidewalks, if constructed with edgestones and covered with brick, flat stones or

Construction, etc., of sidewalks in cities. 1895, 444. 166 Mass. 498.

concrete, shall afterward be maintained at the expense of such city. If such sidewalk has been permanently constructed with edgestones and covered with brick, flat stones or concrete, as aforesaid, there shall be deducted from the assessment therefor any amount previously assessed upon the abutting land and paid for the cost of the construction in any other manner of such sidewalk; and such deduction shall be made proportionally from the assessments upon abutters, who are owners of the land in respect of which such former assessments were paid. In estimating the damage sustained by the construction of such sidewalks, the benefit, if any, to the property of the party by reason thereof shall be allowed in set-off.

Certain sections to apply. 1873, 303, § 1.

SECTION 45. The provisions of sections fourteen, twenty-one, twenty-two and twenty-three shall apply to sidewalk assessments.

1878, 249. P. S. 50, § 25. 1895, 444, § 1. 1896, 251. 1897, 151.

CHAPTER 50.

OF BETTERMENTS AND OTHER ASSESSMENTS ON ACCOUNT OF THE COST OF PUBLIC IMPROVEMENTS.

SECTIONS 1–9. — Betterments.
SECTIONS 10–14. — Provisions relative to Public Improvements.
SECTIONS 15–18. — Special Apportionment of Betterment Assessments.
SECTION 19. — Parks.
SECTIONS 20–22. — Proceedings by County Commissioners.
SECTIONS 23–27. — Special Provisions for Cities.

BETTERMENTS.

Assessments for betterments. 1866, 174, § 5. 1868, 75; 276, § 1. 1869, 169, §§ 1, 3–5; 367, § 1. 1871, 217, § 1; 382, §§ 1, 10. 1874, 275, § 2. P. S. 51, §§ 1, 10. 1891, 170, § 3. 1896, 158, § 4. 104 Mass. 461, 470, 491. 106 Mass. 89, 544, 549. 108 Mass. 60. 111 Mass. 226, 294. 113 Mass. 97, 262, 528. 114 Mass. 513. 115 Mass. 377. 116 Mass. 181, 189, 193, 200. 119 Mass. 556.

SECTION 1. In a town which accepts the provisions of this and the eight following sections or has accepted the corresponding provisions of earlier laws, or in any city, the board of city or town officers which is authorized to lay out ways therein may, at any time within two years after the passage of an order laying out, relocating, altering, widening, grading or discontinuing a way and after the work has been completed or the way has been discontinued, if such order declares that such action has been taken under the provisions of law authorizing the assessments of betterments, and if in its opinion any land receives a benefit or advantage therefrom beyond the general advantage to all land in the city or town, determine the value of such benefit or advantage to such land and assess upon the same a proportional share of the cost of such laying out, relocation, alteration, widening, grading or discontinuance; but no such assessment shall exceed one-half of the amount of such adjudged benefit or advantage.

121 Mass. 27, 382. 122 Mass. 119, 273. 123 Mass. 23. 126 Mass. 290. 127 Mass. 179, 272. 133 Mass. 321. 136 Mass. 556. 144 Mass. 352. 151 Mass. 250. 164 Mass. 306. 169 Mass. 240. 176 Mass. 22.

Re-assessments. 1871, 217, § 5; 382, § 2. 1872, 246. P. S. 51, § 2. 115 Mass. 188.

SECTION 2. If such assessment is invalid and has not been paid or has been recovered back, it may be re-assessed by such board, to the amount for which the original assessment ought to have been made, and it shall be a lien upon the land, and shall be collected in the same manner as re-assessed taxes.

SECTION 3. The cost so assessed shall include all damages for land and buildings taken. The damages for land taken shall be fixed at the value thereof before such laying out, relocation, alteration, widening, grading or discontinuance, and shall also include the value of all buildings on the land a part of which is taken, deducting therefrom the value of materials removed and of all buildings or parts of buildings remaining thereon and shall be paid in the manner and upon the conditions required in like proceedings.

Expenses and damages. 1866, 174, § 2. 1868, 75. 1871, 382, § 3. P. S. 51, § 3. 108 Mass. 535. 151 Mass. 250. 158 Mass. 21.

SECTION 4. An owner of land abutting on any such way and liable to such assessment may give notice in writing to such board, before the estimate of damages is made, that he elects to surrender his land; and if said board adjudges that the public convenience and necessity require the taking of such abutting estate for the improvements named, they may take the whole thereof, and shall thereupon estimate its value, excluding the benefit or advantage accruing from such improvements; and such owner shall convey the estate to such city or town and may recover therefrom in an action of contract the value so estimated. The city or town may sell any portion of said land which is not needed for such improvements.

Surrender of estate. Proceedings. 1866, 174, § 8. 1868, 75. 1871, 382, § 5. P. S. 51, § 4. 119 Mass. 126. 127 Mass. 408.

SECTION 5. If such owner at any time before demand gives notice to such board to apportion such assessment, it shall apportion the assessment into three equal parts and certify its apportionment to the assessors, who shall add one of said parts, with interest from the date of the apportionment, to the annual tax of such land for each of the three years next ensuing; and all such assessments which remain unpaid after they become due shall bear interest until the payment thereof.

Apportionment of betterments. 1866, 174, § 6. 1868, 75. 1869, 367, § 2. 1871, 382, § 6. P. S. 51, § 5.

SECTION 6. A person who is aggrieved by the doings of such board may within one year file a petition in the superior court for the county in which the land is situated and after notice to the city or town shall have a trial by a jury therein, and upon request of either party the jury shall take a view. 120 Mass. 326. 121 Mass. 382.

Appeal. 1866, 174, § 7. 1868, 75. 1871, 217, § 2; 382, § 7. P. S. 51, § 6. 114 Mass. 416. 115 Mass. 377. 116 Mass. 181.

SECTION 7. If the jury does not reduce the assessment, the respondent shall recover costs, which shall be a lien upon the land, and shall be collected in the same manner as the assessment; but if the jury reduces the assessment, the petitioner shall recover costs.

Proceedings on appeal. 1871, 217, §§ 3, 4; 382, § 8. P. S. 51, § 7. 126 Mass. 290.

SECTION 8. If an assessment is made upon land the whole or part of which is leased, the owner shall pay the assessment, and may collect of the lessee an additional rent for the portion so leased, equal to ten per cent per annum on that proportion of the amount paid which the leased portion bears to the whole estate, after deducting from the whole amount any money received for damages to such land in excess of what he has necessarily expended thereon by reason of such damages.

Assessments on leased estates. 1871, 382, § 9. P. S. 51, § 8. 112 Mass. 188. 115 Mass. 186, 188. 120 Mass. 328.

SECTION 9. In a city in which the mayor and aldermen are part of the board authorized to lay out streets or ways, such mayor and aldermen shall constitute the board named in this chapter. 1869, 169, § 5. 1871, 382, § 12. P. S. 51, § 9.

Mayor and aldermen to constitute the board of assessment.

PROVISIONS RELATIVE TO PUBLIC IMPROVEMENTS.

Assessments to be a lien; interest.
1866, 174, § 6.
1868, 75.
1871, 217, § 4; 382, §§ 6, 8.
P. S. 51, §§ 5, 7.
1884, 237.
106 Mass. 549.
117 Mass. 181.
127 Mass. 179.

SECTION 10. Assessments for betterments and other public improvements shall constitute a lien upon the land assessed and shall be enforced in the manner provided for the collection of taxes. They shall bear interest from the thirtieth day after the assessment until paid. If the validity or amount of such assessment is drawn in question in an action or other proceeding the lien shall continue for one year after final judgment and may be enforced in the same manner as the original assessment.

Assumption of betterments by town.
1884, 226.
169 Mass. 240.

SECTION 11. Such board may agree in writing with the owner of land taken for a way that the city or town shall assume the betterments assessed upon the residue of his land or upon a portion thereof, if, upon terms to be agreed upon with the board, he shall release to the city or town all claims for damages growing out of the proceeding in respect of which the betterments are assessed.

Filing of petitions for abatement.
1874, 283, § 1.
P. S. 51, § 16.
119 Mass. 487.

SECTION 12. Petitions for the abatement of assessments for betterments, main drains, common sewers, sidewalks and other public purposes which are required to be filed with the county commissioners, may be filed with their clerk when they are not in session. The filing of the petition shall in all cases be the commencement of proceedings.

Redemption of land sold.
1877, 37.
P. S. 51, § 17.

SECTION 13. If land is sold for payment of an assessment of a portion of the cost of any public improvement, such land may be redeemed in the same manner, by the same persons and on the same terms as if sold for payment of taxes.

Chapter applicable to railroad crossings.
1884, 280.

SECTION 14. The provisions of this chapter shall apply to any alteration of a highway, town way, bridge or its approaches, which are made in pursuance of sections one hundred and thirty-four to one hundred and thirty-nine, inclusive, of chapter one hundred and eleven.

SPECIAL APPORTIONMENT OF BETTERMENT ASSESSMENTS.

Apportionment of betterments.
1896, 158, § 1.

SECTION 15. If the owner of land upon which an assessment for betterments has been laid at any time before demand gives notice to such board to apportion such assessment, such board shall apportion the same into such number of equal parts, not exceeding ten, as the owner shall in his notice request and shall certify said apportionment to the assessors, who shall add one of said parts to the annual tax upon said land for each of the years next ensuing until all the parts have been so added; and all such assessments remaining unpaid after they become due shall bear interest until payment thereof.

— in other cases.
1896, 158, § 2.

SECTION 16. If in any other case such owner petitions such board to apportion the assessments, the board may, in its discretion, apportion and certify the same as provided in the preceding section and the assessors shall proceed as therein required. Interest from the date of apportionment shall be added to each part and also as provided in the preceding section.

SECTION 17. The lien shall continue until the expiration of two years after the time when the last instalment is committed to the collector. Any unpaid balance of said assessments may be paid at any time, notwithstanding a prior apportionment.

Limitation of lien. 1896, 158, § 3.

SECTION 18. The provisions of the three preceding sections shall not be in force unless they or the corresponding provisions of earlier laws have been accepted by the city council or by a town.

Application of certain sections. 1896, 158, § 4.

PARKS.

SECTION 19. Boards of park commissioners of cities and towns may respectively determine the value of land and assess upon it the amount of betterments accruing thereon by the locating and laying out of parks under the provisions of chapter twenty-eight, in the same manner as city or town officers who are authorized to lay out ways, and the provisions of this chapter as far as applicable shall apply to such assessments. No assessment shall be laid upon any land except such as abuts upon the park or upon a way bounded by such park.

Park betterments. 1882, 154, § 7.

PROCEEDINGS BY COUNTY COMMISSIONERS.

SECTION 20. If the county commissioners lay out, relocate, alter, widen, grade or discontinue a highway from town to town or from place to place within the same town, they may declare the same to be done under the provisions of law authorizing the assessment of betterments with regard to so much of said highway as lies within a city or within a town which has accepted the provisions of this chapter or the corresponding provisions of earlier laws.

County commissioners may lay out highways under betterment acts. 1887, 124, § 1. 122 Mass. 273.

SECTION 21. If in such case the county commissioners have ordered any damages to be paid by the county for any land or buildings taken in a city, or in such town, the amount of such damages which have finally been paid shall be included in the cost of laying out, relocating, altering, widening, grading or discontinuance; and the board assessing the betterments shall reimburse the county the proportion of such betterments received which the damages so paid bear to the whole amount of betterments assessed and paid. Such reimbursement shall not be made until all the betterments shall have been paid or finally settled.

Damages. Reimbursement of betterments. 1887, 124, § 2.

SECTION 22. The provisions of this chapter shall, so far as applicable, apply to proceedings under the two preceding sections.

Application of certain provisions. 1887, 124, § 3.

SPECIAL PROVISIONS FOR CITIES.

SECTION 23. If a board of public officers in a city passes an order to lay out, relocate, alter, widen, grade or discontinue a street, to establish, grade and construct a sidewalk or to complete a partially constructed sidewalk, or to lay, make and maintain or repair a main drain or common sewer, or to make any other public improvement, for a portion of the cost of which assessments may be made upon land, the clerk of such board shall within ten days thereafter file a statement thereof in the registry of deeds of the county or district in which such city is situated, and shall within three months thereafter give notice to each person to be charged thereby, or to his agent, tenant or lessee.

In cities, statement of betterments, etc., to be filed in registry of deeds. 1880, 187, § 1. P. S. 51, § 11. 1885, 299.

Contents of statement of betterments, etc.
1880, 187, § 2.
P. S. 51, § 12.

SECTION 24. Such statement shall express in general terms the action of the board and its intention to make such assessment, and shall specify the streets or parts of streets upon which the land to be assessed is situated. The register of deeds shall record such statement in a book kept for the purpose and index it according to the streets specified therein.

No assessment, when.
1880, 187, § 3.
P. S. 51, § 13.

SECTION 25. No such assessment shall be laid upon any land which does not abut upon streets so specified; and such assessments shall not create a lien upon the land unless such statement has been so filed.

"Street", how construed.
1866, 174, § 9.
1868, 75; 276, § 3.
1880, 187, § 4.
P. S. 51, § 14.

SECTION 26. The term "street", for the purposes of the three preceding sections shall include highways, town ways, footways, private ways, courts, lanes, alleys and passage ways.

Limitation of four preceding sections.
1880, 187, § 5.
P. S. 51, § 15.

SECTION 27. The provisions of the four preceding sections shall not be in force in a city unless they or the corresponding provisions of earlier laws have been accepted by its city council.

CHAPTER 51.

OF THE REPAIR OF WAYS AND BRIDGES.

SECTIONS 1–16. — Public Ways and Bridges.
SECTIONS 17–24. — Damages for Defects in Ways.
SECTIONS 25–32. — Private Ways and Bridges.

PUBLIC WAYS AND BRIDGES.

Ways and bridges to be repaired by towns.
1693–4, 6, § 1.
1786, 81, § 1.
R. S. 25, § 1.
G. S. 44, § 1.
1877, 234, § 1.
P. S. 52, § 1.

SECTION 1. Highways, town ways, causeways and bridges shall, unless otherwise provided, be kept in repair at the expense of the city or town in which they are situated, so that they may be reasonably safe and convenient for travellers, with their horses, teams and carriages at all seasons.

1 Pick. 427.
13 Pick. 343.
11 Gray, 353.
13 Gray, 61, 346, 603.
14 Gray, 242.
16 Gray, 229.
1 Allen, 182.
6 Allen, 449.
8 Allen, 51.
13 Allen, 211, 291.
100 Mass. 255.
103 Mass. 133.
105 Mass. 472.
106 Mass. 276.
120 Mass. 300.
176 Mass. 413.

Repair of bridge by several towns.
1852, 238.
G. S. 44, § 2.
P. S. 52, § 2.

SECTION 2. If two or more towns which are required by law to maintain or keep in repair a bridge upon a highway or town way differ as to the mode or time of doing the same, the county commissioners having jurisdiction to lay out highways in either of such towns to whom application is first made by one of the towns, may, after notice to all parties interested and a hearing, pass such orders relative to the maintenance and repair of such bridge as in their opinion the public good may require.

Money for repair of ways, how expended.
1818, 121, § 1.
R. S. 25, § 9.
G. S. 44, § 4.
1871, 158; 298, § 2.

SECTION 3. Money appropriated for making and repairing ways shall be carefully and judiciously expended by the road commissioners; or, if the town is divided into highway districts, by the surveyors of highways, each in his own district.

1873, 51. 1877, 58. P. S. 52, § 3. 127 Mass. 503.

SECTION 4. The selectmen of a town having more than one surveyor of highways shall annually, before the first day of May, assign in writing to each surveyor the limits and divisions of the ways to be kept in repair by him.

Surveyors' limits. 1786, 81, § 2. 1796, 58, § 4. R. S. 25, § 7. G. S. 44, § 6.

P. S. 52, § 4. 1 Pick. 418. 4 Pick. 149. 120 Mass. 499.

SECTION 5. If there is a deficiency in the amount appropriated for the repair of ways within the limits of any surveyor, or if said amount is not paid to him and he is thereby rendered unable to make such repairs, he may, at an expense not exceeding ten dollars, employ persons to make such repairs who shall be paid therefor by the town.

Power of surveyors if sum voted is deficient. 1786, 81, § 4. R. S. 25, § 13. G. S. 44, § 13. P. S. 52, § 5. 9 Met. 522. 1 Allen, 102.

SECTION 6. If a town neglects to vote a sufficient amount for such repairs or does not otherwise effectually provide therefor, each surveyor, in his district, or the road commissioners, may employ persons to make such repairs who shall be paid therefor by the town.

Surveyor, etc., may repair at town's expense, when. 1786, 81, § 8. R. S. 25, § 14.

G. S. 44, § 14. 1871, 158. 1873, 51. 1877, 234, § 1. P. S. 52, § 6. 4 Pick. 149. 13 Pick. 343. 8 Allen, 51. 136 Mass. 235. 148 Mass. 174.

SECTION 7. Two-thirds at least of the money appropriated by a town for such repairs shall be expended before the first day of July next after the same is appropriated, or at such other time as the town may determine.

Two-thirds of appropriation to be expended before July. 1796, 58, § 4.

R. S. 25, § 10. 1839, 144. 1847, 254. G. S. 44, § 15. 1871, 298, § 1. P. S. 52, § 7.

SECTION 8. Each surveyor shall annually, on the first Monday of July and also at the expiration of his term of office, render to the selectmen an account of all money expended by him on ways. For each neglect he shall forfeit not more than fifty dollars.

Accounts of surveyors. 1796, 58, § 5. R. S. 25, § 19. G. S. 44, § 16. 1871, 298, § 1. P. S. 52, § 8.

SECTION 9. If money remains unexpended in the hands of a surveyor at the expiration of his term of office, he shall pay the same to the town treasurer, and if he fails so to do the treasurer, after demand, may recover the same, with twenty per cent in addition thereto, in an action of contract to the use of the town.

Surveyor to pay over surplus. 1796, 58, § 5. R. S. 25, §§ 17, 18. G. S. 44, § 18. P. S. 52, § 9.

SECTION 10. The officer who has the care of the trees belonging to a city or town and his assistants, but no other person, except as is provided in section seven of chapter fifty-three, may, and if required by the surveyors or road commissioners shall, trim or lop off trees, except public shade trees in towns, and bushes standing in ways, and, if ordered by a vote of the mayor and aldermen, selectmen or road commissioners passed after public notice and hearing, shall cut down and remove such trees and bushes. The surveyors and road commissioners shall cause whatever obstructs such ways, or endangers, hinders or incommodes persons travelling thereon to be removed; and shall forthwith cause snow to be removed from such ways or to be so trodden down as to make them reasonably safe and convenient. 151 Mass. 422. 152 Mass. 61.

Removal of obstructions. 1693-4, 6, § 1. 1786, 81, § 1. 1796, 58, § 8. R. S. 25, § 3. G. S. 44, § 8. 1877, 234, § 1. 1880, 62. P. S. 52, § 10. 1885, 123, § 2. 1899, 330. 13 Pick. 343. 11 Gray, 342. 8 Allen, 473. 97 Mass. 472. 98 Mass. 581. 115 Mass. 431. 120 Mass. 565. 128 Mass. 546. 131 Mass. 470. 149 Mass. 85.

SECTION 11. No surveyor, road commissioner or other person shall, without an order from the board of health, remove or take down fences, gates or bars which have been placed on a way for the purpose of preventing the spread of a disease dangerous to the public health. G. S. 44, § 9. P. S. 52, § 11.

Fences, etc., to prevent spread of disease, not to be removed. 1786, 81, § 11. R. S. 25, § 4.

Surveyors not to turn water-courses so as to incommode, etc.
1786, 81, § 1.
R. S. 25, § 5.
G. S. 44, § 10.
P. S. 52, § 12.
2 Met. 599.
8 Gray, 409.
15 Gray, 486.

SECTION 12. A surveyor or road commissioner may cause a water-course occasioned by the wash of a way to be conveyed by the side of the way; but the mayor and aldermen or selectmen, upon complaint of a person whose building has been incommoded or whose business has been obstructed thereby may, after a view, order the surveyor or road commissioner to make alterations in such work.

— may contract for repairing ways.
1796, 58, § 5.
R. S. 25, § 15.
G. S. 44, § 11.

SECTION 13. Towns may authorize their surveyors or road commissioners or any other person to enter into contracts for making or repairing the ways therein. P. S. 52, § 13. 107 Mass. 414. 116 Mass. 455.

Towns may enter upon, etc., land for protection of ways, etc.
1868, 264.
P. S. 52, § 14.

SECTION 14. The selectmen or road commissioners may enter upon, use or survey or take any land for the purpose of securing or protecting a public way or bridge; and all damages sustained thereby shall be recovered in the same manner as damages caused by the laying out of town ways.

— to pay damages caused by repairs.
R. S. 25, § 6.
1859, 67.
G. S. 44, § 19.
1871, 158.
1873, 51.
P. S. 52, § 15.
1 Pick. 418.
2 Met. 599.
8 Met. 172.
8 Cush. 69.
10 Cush. 411.
5 Gray, 372.
8 Gray, 409.

SECTION 15. If an owner of land adjoining a way who sustains damage in his property by an act done for the purpose of repairing the way, files his petition for compensation with the mayor and aldermen or selectmen or road commissioners, after the commencement and within one year after the completion of the work, they shall, within thirty days after the filing of said petition, unless the parties otherwise agree in writing, determine the amount of his damages and deduct therefrom the benefit, if any, to the complainant for such repair.

13 Gray, 601. 14 Gray, 216, 218. 15 Gray, 486. 104 Mass. 16. 106 Mass. 85. 109 Mass. 123. 113 Mass. 111. 119 Mass. 372. 121 Mass. 5, 241, 262. 122 Mass. 110. 123 Mass. 522. 125 Mass. 371, 519, 529. 128 Mass. 550. 136 Mass. 14. 137 Mass. 255. 144 Mass. 579. 145 Mass. 561. 147 Mass. 452. 151 Mass. 198. 153 Mass. 245. 158 Mass. 564. 161 Mass. 530. 163 Mass. 77. 169 Mass. 390. 175 Mass. 459, 590. 177 Mass. 173.

Petitioner aggrieved may apply for jury, etc.
R. S. 25, § 6.
1859, 67.
G. S. 44, § 20.
P. S. 52, § 16.
14 Gray, 216, 218.
117 Mass. 78.
119 Mass. 392.
120 Mass. 416.

SECTION 16. If the petitioner is aggrieved, either by the estimate of his damages or by a refusal or neglect to estimate the same, he may, within one year after the expiration of said thirty days, apply for a jury, and have his damages ascertained in the manner provided when land is taken in laying out highways, or he may, by agreement with the adverse party and upon application made within the same time, have them ascertained by a committee which shall be appointed, if the way is in the city of Boston, by the superior court, and if elsewhere, by the county commissioners in their respective jurisdictions.

DAMAGES FOR DEFECTS IN WAYS.

Damages for loss of life from a defective way.
1786, 81, § 7.
R. S. 25, § 21.
G. S. 44, § 21.
1881, 199, §§ 4, 5.
P. S. 52, § 17.
105 Mass. 599.
138 Mass. 14.
144 Mass. 491.
145 Mass. 91.
153 Mass. 472.
155 Mass. 344.

SECTION 17. If the life of a person is lost by reason of a defect or a want of repair of or a want of a sufficient railing in or upon a way, causeway or bridge, the county, city or town or person by law obliged to repair the same shall, if it or he had previous reasonable notice of the defect or want of repair or want of railing, be liable in damages not exceeding one thousand dollars, which shall be assessed with reference to the degree of culpability of the defendant and recovered in an action of tort, commenced within one year after the injury causing the death by the executor or administrator of the deceased person, for the use of the widow and children

of the deceased in equal moieties, or, if there are no children, to the use of the widow, or, if there is no widow, to the use of the next of kin.

SECTION 18. If a person sustains bodily injury or damage in his property by reason of a defect or a want of repair or a want of a sufficient railing in or upon a way, causeway or bridge, and such injury or damage might have been prevented, or such defect or want of repair or want of railing might have been remedied by reasonable care and diligence on the part of the county, city, town or person by law obliged to repair the same, he may, if such county, city, town or person had or, by the exercise of proper care and diligence, might have had reasonable notice of the defect or want of repair or want of a sufficient railing, recover damages therefor from such county, city, town or person; but he shall not recover from a county, city or town more than one-fifth of one per cent of its state valuation last preceding the commencement of the action nor more than four thousand dollars, and no action therefor shall be maintained by a person whose carriage and the load thereon exceeds the weight of six tons.

Damages for defect of ways.
C. L. 12, § 2.
1693-4, 6, § 6.
1786, 81, § 7.
R. S. 25, § 22.
1838, 104.
1850, 5, § 1.
G. S. 44, § 22.
1877, 234, §§ 2, 3.
1878, 259, § 1.
P. S. 52, §§ 18, 20.
8 Cush. 522.
4 Gray, 395.
7 Gray, 104.
9 Gray, 386.
11 Gray, 342.
14 Gray, 246.
15 Gray, 577.
16 Gray, 508.
2 Allen, 552.
3 Allen, 402.
4 Allen, 557.
5 Allen, 98.
8 Allen, 137, 237.
11 Allen, 318.
12 Allen, 566.
13 Allen, 186.
14 Allen, 475.
100 Mass. 49, 255.
101 Mass. 93, 99.
102 Mass. 329.
103 Mass. 509.
104 Mass. 75, 84.
105 Mass. 310, 470, 473.
106 Mass. 271, 276, 450.
107 Mass. 339, 347.
109 Mass. 126.
110 Mass. 330, 506, 514, 520, 522.
112 Mass. 43, 489.
114 Mass. 241, 507.
116 Mass. 93, 420.
117 Mass. 509.
119 Mass. 276, 564.
120 Mass. 580.
121 Mass. 216, 337.
122 Mass. 100, 223, 389, 491.
123 Mass. 511.
124 Mass. 165.
125 Mass. 526.
126 Mass. 324.
127 Mass. 290, 329.
140 Mass. 311, 556.
141 Mass. 17, 189, 242.
145 Mass. 326.
147 Mass. 245, 505.
148 Mass. 544.
149 Mass. 289.
150 Mass. 218.
151 Mass. 212.
153 Mass. 409, 472, 514.
154 Mass. 475.
155 Mass. 344.
156 Mass. 75, 391.
158 Mass. 464.
161 Mass. 3.
164 Mass. 263.
168 Mass. 382.
171 Mass. 472.
175 Mass. 576.

SECTION 19. A county, city or town shall not be liable for an injury or damage sustained upon a way, causeway or bridge by reason of snow or ice thereon, if the place at which the injury or damage was sustained was at the time of the accident otherwise reasonably safe and convenient for travellers.

Towns not liable for injuries from ice or snow.
1896, 540.
169 Mass. 516.
170 Mass. 384.
174 Mass. 181.
177 Mass. 498.

SECTION 20. A person so injured shall, within ten days thereafter, if such defect or want of repair is caused by or consists in part of snow or ice, or both, and in all other cases, within thirty days thereafter, give to the county, city, town or person by law obliged to keep said way, causeway or bridge in repair, notice of the time, place and cause of the said injury or damage; and if the said county, city, town or person does not pay the amount thereof, he may within two years after the date of said injury or damage recover the same in an action of tort. Such notice shall not be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury, if it is shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby.

Notice of injury. Limitation of action.
1877, 234, § 3.
P. S. 52, § 19.
1882, 36.
1888, 114.
1894, 422.
128 Mass. 318.
129 Mass. 525.
131 Mass. 441.
132 Mass. 178, 534.
134 Mass. 374, 484, 507.
136 Mass. 136.
145 Mass. 549.
151 Mass. 212.
153 Mass. 514.
164 Mass. 393.
Time.
132 Mass. 299, 324.
133 Mass. 529.
135 Mass. 110.
147 Mass. 402.
Place.
128 Mass. 521.
130 Mass. 115.
131 Mass. 202.
132 Mass. 187, 324.
135 Mass. 110.
136 Mass. 136.
139 Mass. 91.
155 Mass. 595.
156 Mass. 145.
158 Mass. 279.
Cause.
130 Mass. 161, 275, 398, 494.
131 Mass. 441, 443, 516, 551.
132 Mass. 187, 324, 441.
135 Mass. 110.
136 Mass. 278, 419.
140 Mass. 227, 424.
142 Mass. 486.
155 Mass. 344.
168 Mass. 251, 556.
177 Mass. 373.

SECTION 21. Such notice shall be in writing, signed by the person injured or by some one in his behalf, and may be given, in the case of a county, to one of the county commissioners or the county treasurer; in the case of a city, to the mayor, the city clerk or

To whom notice shall be given, etc.
1877, 234, § 4.
1879, 244.
1881, 236.

P. S. 52, § 21.
129 Mass. 525.
130 Mass. 275, 494.
132 Mass. 187, 534.
134 Mass. 484.
138 Mass. 74, 78.
139 Mass. 91.
144 Mass. 184.
145 Mass. 105.
150 Mass. 517.
151 Mass. 212.
158 Mass. 279.
173 Mass. 310.

treasurer; and in the case of a town, to one of the selectmen or to the town clerk or treasurer. If by reason of physical or mental incapacity it is impossible for the person injured to give the notice within the time required, he may give it within ten days after such incapacity has been removed, and in case of his death without having been for ten days at any time after his injury of sufficient capacity to give the notice, his executor or administrator may give the notice within thirty days after his appointment.

Correction of defective notices.
1894, 389.
168 Mass. 251.

SECTION 22. A defendant shall not avail himself in defence of any omission to state in such notice the time, place or cause of the injury or damage, unless, within five days after receipt of a notice, given within the time required by law and by an authorized person referring to the injuries sustained and claiming damages therefor, the person receiving such notice, or some person in his behalf, notifies in writing the person injured, his executor or administrator, or the person giving or serving such notice in his behalf, that his notice is insufficient and requests forthwith a written notice in compliance with law. If the person authorized to give such notice, within five days after the receipt of such request, gives a written notice complying with the law as to the time, place and cause of the injury or damage, such notice shall have the effect of the original notice, and shall be considered a part thereof.

Penalty on towns for neglect, etc.
C. L. 12, § 2.
1693–4, 6, § 6.
1786, 81, § 7.
R. S. 25, § 24.

SECTION 23. If a city or town neglects to repair any way or bridge which it is obliged to keep in repair, or neglects to make the same reasonably safe and convenient when encumbered with snow, it shall pay such fine as the court may impose.

G. S. 44, § 24. 1877, 234, § 1. P. S. 52, § 23. 13 Pick. 343. 103 Mass. 133.

Location not to be denied, when.
R. S. 25, § 26.
G. S. 44, § 26.
P. S. 52, § 25.
5 Greenl. 368.
2 Pick. 51.
3 Pick. 408.
18 Pick. 312.
5 Gray, 73.

SECTION 24. If, upon the trial of an indictment or action brought to recover damages for an injury received by reason of a defect or want of repair or want of sufficient railing in a way, causeway or bridge, it appears that the defendant has, within six years before such injury, made repairs on such way or bridge, it or he shall not deny the location thereof. 7 Gray, 343, 345.

6 Allen, 455. 107 Mass. 232. 112 Mass. 514. 120 Mass. 1.
101 Mass. 200. 110 Mass. 305. 117 Mass. 509. 130 Mass. 364.

PRIVATE WAYS AND BRIDGES.

Four or more proprietors may call meeting.
1787, 17, § 1.
R. S. 25, § 34.
G. S. 44, § 27.
P. S. 52, § 26.

SECTION 25. If four or more persons are the proprietors and rightful occupants of a private way or bridge, and three of them make application in writing to a justice of the peace to call a proprietors' meeting, the justice may issue his warrant therefor, stating the time, place and purpose of the meeting. The warrant shall be posted in a public place of the town in which such way or bridge is situated, seven days at least before the time appointed for the meeting.

Powers and duties of proprietors and surveyor.
1787, 17, § 1.
R. S. 25, § 35.

SECTION 26. The proprietors and occupants so assembled shall choose a clerk and surveyor, who shall be sworn. They may determine the manner of calling future meetings, what repairs of the way or bridge are necessary and the proportion of money and

of labor and materials to be furnished by each proprietor and occupant for such repairs. The surveyor shall have the like powers with respect to such way or bridge as are exercised by surveyors of highways. G. S. 44, § 28. P. S. 52, § 27.

SECTION 27. A proprietor or occupant who refuses or neglects to comply with such vote, when required by the surveyor, shall be liable to him in an action of contract for the amount of his proportion, with ten per cent interest thereon. G. S. 44, § 29. P. S. 52, § 28. Penalty on proprietor neglecting to comply with votes. 1787, 17, § 1. R. S. 25, § 36.

SECTION 28. If a person so chosen refuses or neglects to accept that trust and take the oath, he shall forfeit five dollars. 1787, 17, § 2. R. S. 25, § 37. G. S. 44, § 30. P. S. 52, § 29. — for refusing to serve as surveyor.

SECTION 29. Damages and forfeitures recovered under the provisions of the two preceding sections shall be applied to the use of the proprietors for repairing said way or bridge. Forfeitures, how applied. 1787, 17, § 2. R. S. 25, § 38. G. S. 44, § 31. P. S. 52, § 30.

SECTION 30. The proprietors and occupants may, at a meeting for that purpose, authorize any person to contract by the year, or for a longer or shorter time, for making and keeping in repair such private way or bridge, may vote to raise such amount of money as they consider necessary for carrying such contracts into effect; and may choose assessors, who shall assess each proprietor and occupant for his proportion of such amount according to his interest in such way or bridge, and shall deliver the lists of such assessments to the surveyor, with proper warrants of distress, in substance as is prescribed by law for collecting town taxes. Proprietors may contract for repairs, etc. 1801, 80. R. S. 25, §§ 39, 40. G. S. 44, § 32. P. S. 52, § 31.

SECTION 31. The surveyor may levy and collect such taxes in the same manner as collectors of taxes are empowered to collect taxes. G. S. 44, § 33. 1871, 298, § 1. P. S. 52, § 32. Surveyors may collect taxes. 1801, 80. R. S. 25, § 41.

SECTION 32. If a surveyor neglects or refuses to pay over according to the direction of his warrant the moneys so collected, he shall be liable to the penalties provided in section nine relative to surveyors of highways. P. S. 52, § 33. Penalty on surveyor for neglect. 1801, 80. R. S. 25, § 42. G. S. 44, § 34.

CHAPTER 52.

OF REGULATIONS AND BY-LAWS RELATIVE TO WAYS AND BRIDGES.

SECTIONS 1–3. — Guide Posts.
SECTION 4. — Sidewalks.
SECTIONS 5–33. — By-Laws and Regulations.

GUIDE POSTS.

SECTION 1. Every city and town shall erect and maintain guide posts on the ways therein, at such places as are convenient for the direction of travellers and at such forks or intersections of ways which lead to adjoining cities or towns. P. S. 53, § 1. 1887, 162. Towns to maintain guide posts. 1794, 63, § 1. R. S. 25, § 28. G. S. 45, § 1.

Words on guide posts.
1794, 63, § 3.
R. S. 25, § 31.

SECTION 2. Upon such guide posts shall be stated the name of the city or town or place to which each road leads and the distance to the same. G. S. 45, § 4. P. S. 53, § 4.

Penalty for neglect to erect posts.
1794, 63, § 4.
R. S. 25, § 32.
G. S. 45, § 5.
P. S. 53, § 5.

SECTION 3. Every city or town which neglects to erect and maintain such guide posts, or a suitable substitute therefor, shall annually forfeit five dollars for every guide post which it so neglects to maintain.

SIDEWALKS.

Sidewalks, penalty for riding, etc., over. Surveyors' authority.
1849, 24.
G. S. 45, § 6.
P. S. 53, § 6.
100 Mass. 257.
121 Mass. 161.
133 Mass. 569.

SECTION 4. A person owning or occupying land adjoining a way in a town may construct a sidewalk within such way and along the line of such land, indicating the width of such sidewalk by trees, posts or curbstones set at reasonable distances apart, or by a railing; and if a sidewalk is so constructed, whoever rides or drives a horse or team upon and along the same shall forfeit one dollar, to be recovered by such owner or occupant in an action of tort. But the provisions of this section shall not affect the authority of surveyors of highways or of road commissioners, or any other authority which can be legally exercised over ways or diminish the liability of any person for unreasonably obstructing ways, nor shall it apply to cities.

BY-LAWS AND REGULATIONS.

— removal of snow and ice from.
1857, 64, §§ 1, 2.
G. S. 45, § 9.
1863, 114, §§ 1, 2.
1878, 89, § 1.
P. S. 53, §§ 7-9.
166 Mass. 133.

SECTION 5. Cities by ordinance and towns by by-laws may provide for the removal of snow and ice from sidewalks within such portions of the city or town as they consider expedient, which ordinances and by-laws shall determine the time and manner of removal and shall affix penalties, not exceeding fifty dollars in the case of a city or ten dollars in the case of a town, for each violation thereof by an owner or tenant of land abutting upon such sidewalk.

Use of ways.
1857, 82.
G. S. 45, § 10.
1865, 31, § 1.
1869, 301.
1874, 225.
1875, 136.
1876, 20.
P. S. 53, §§ 10-13, 15, 16.
1892, 390.
14 Gray, 52.
140 Mass. 432.
148 Mass. 380.
162 Mass. 496.

SECTION 6. Cities and towns may make ordinances and by-laws to prevent the pasturing of cattle or other animals, either with or without a keeper; relative to the passage and driving of sheep, swine and neat cattle; prohibiting persons from riding or driving beasts of burden, carriage or draught, at a rate of speed inconsistent with public safety or convenience; regulating the passage of carriages, sleighs, street cars, or other vehicles, or the use of sleds for coasting; regulating and controlling persons who frequent public places playing on hand organs, drums, trumpets or other musical instruments, upon or through any way or bridge, and may affix penalties of not more than twenty dollars for each violation thereof. They may, by ordinance or by-law, regulate the transportation of the offal of slaughtered animals upon or through any way or bridge and affix a penalty of not more than one hundred dollars for each violation thereof.

Speed of vehicles regulated.
1901, 192, § 1.

SECTION 7. A city, by ordinance, and a town, by by-law, may prohibit persons from riding or propelling, or from causing to be propelled, a vehicle except such as is drawn by a horse or a person, upon a street or way therein, at a rate of speed which it considers to be inconsistent with public safety or convenience, and for a violation thereof may affix a penalty of a fine of not more than one

hundred dollars or of imprisonment for not more than ten days, or of both such fine and imprisonment.

Fast driving, arrests for. 1865, 31, § 2. P. S. 53, § 14.

SECTION 8. Whoever violates an ordinance or by-law prohibiting persons from riding or driving at a rate of speed inconsistent with public safety or convenience may be arrested without a warrant by an officer authorized to make arrests and kept in custody not more than twenty-four hours, Sunday excepted; at or before the expiration of which time he shall be brought before a proper magistrate and proceeded against according to law.

Regulation of bicycles, etc. 1894, 479, §§ 3, 5.

SECTION 9. Cities and towns shall not make any ordinance, by-law or regulation relative to the use of bicycles or tricycles except that the city council of a city or the selectmen of a town may also, under general regulations authorize the use of velocipedes or similar machines by children on the sidewalk of a public way, square or park; but the mayor of a city or the selectmen of a town may, in their discretion, upon special occasions and subject to reasonable conditions, grant permits to persons to ride bicycles or tricycles during a specified time and upon specified portions of the public ways at any rate of speed.

Same subject. 1894, 479, §§ 1, 4. 1898, 121.

SECTION 10. Whoever, without the permit provided for in the preceding section rides a bicycle or a tricycle in or upon a way, square or park or land or driveway appurtenant to a public reservoir, at a rate of speed exceeding ten miles an hour, or, in a city, rides without a suitable alarm bell adapted for use by the rider, or after sunset in a city or town, without such alarm bell, or rides it on a sidewalk, shall be punished by a fine of not more than twenty dollars for each offence, and shall be further liable for all damages occasioned to any person thereby.

Limitation of prosecutions. 1894, 479, § 4.

SECTION 11. Proceedings for the enforcement of such penalties shall be commenced within sixty days after the offence is committed.

Terms defined. 1894, 479, § 2. 1900, 312.

SECTION 12. The term "sidewalk", as used in the preceding sections shall mean a sidewalk laid out as such by a city, town or district, and any walk in a city or town which is reserved by custom or specially prepared for the use of pedestrians. It shall not include cross walks nor footpaths on ways lying outside of the thickly settled parts of cities and towns which are worn only by travel and are not improved by such cities or towns or by abutters. The terms "bicycle" and "tricycle", as used in said sections, shall include all vehicles propelled by foot or hand power of the person riding them. The terms "park" and "square", as used in said sections, shall not include any spaces under the control of park commissioners, or of a park board or a park department of a city or town having power to make regulations relative to such spaces, and the said sections shall not abridge the powers of such commissioners, board or department, except that they or it shall make no regulation requiring the display of a lamp or lantern upon a bicycle, and such regulation whenever made shall be void.

Moving of buildings in ways regulated. 1870, 314, § 1. P. S. 53, § 17.

SECTION 13. No person shall move a building in a way in a town without written permission from the selectmen or road commissioners, to be granted upon such terms as in their opinion the public safety may require; and the superior court shall have jurisdiction in equity to enforce the provisions of this section.

Tires of draft wagons. 1900, 334, §§ 1, 2, 4.

SECTION 14. A draft wagon or cart having tires of iron or steel, or of any substance equally hard, which are less in width than one and one-half times the diameter of the axle, measured at the shoulder thereof, shall not be used upon any public way; but in no case shall a tire more than four inches in width be required. Wagons or carts built with wooden or hollow axles shall have tires not less in width than the diameter of the axle, measured at the shoulder thereof. The provisions of this section shall apply to all wagons and carts the axles of which are two inches or more in diameter, measured as aforesaid, and to all stage coaches, tally-ho coaches, barges and other passenger vehicles which are not built to run on iron or steel rails and are constructed to carry eight or more persons, but shall not apply to wagons or other vehicles owned or used in this commonwealth on the first day of January in the year nineteen hundred and two.

—penalty. 1900, 334, § 3.

SECTION 15. Whoever violates any provision of the preceding section shall be punished by a fine of not more than one hundred dollars.

Regulation of wild animals in streets. 1894, 105, §§ 1, 3.

SECTION 16. Whoever leads or drives a bear or other dangerous wild animal or causes it to travel upon or be conveyed over a public way unless properly secured in some covered vehicle or cage shall be punished by a fine of not less than five nor more than twenty dollars.

Animals to be killed, when. 1894, 105, § 2.

SECTION 17. Any such animal which is found upon a public way not so secured or caged may be killed by a sheriff, constable or police officer.

By-laws to regulate travel over certain county bridges. 1829, 88, § 2. R. S. 25, § 44. G. S. 45, § 11. P. S. 53, § 18. 1882, 108, § 1. 1888, 313.

SECTION 18. The county commissioners may establish by-laws regulating the speed at which persons may ride or drive over any bridge in their county which has cost not less than one thousand dollars and which was constructed or is maintained in whole or in part by said county, and may affix penalties not exceeding two dollars for a breach thereof.

—to regulate travel over certain town bridges. 1829, 88, § 1. R. S. 25, § 45. G. S. 45, § 12. P. S. 53, § 19.

SECTION 19. A city or town may establish ordinances or by-laws to prohibit persons from riding or driving horses at a rate faster than a walk over any bridge within its limits which has cost not less than five hundred dollars, and may affix penalties not exceeding one dollar for a breach thereof.

—to regulate travel over incorporated bridges. 1821, 101. R. S. 25, § 47. G. S. 45, § 13. P. S. 53, § 20.

SECTION 20. The proprietors of an incorporated bridge may make by-laws to prohibit persons from riding or driving horses over such bridge at a rate faster than a walk; and may affix penalties not exceeding two dollars for each offence, to be recovered to the use of the corporation.

SECTION 21. The governor, with the advice and consent of the council, may make by-laws for the regulation of travel on roads and bridges belonging to the commonwealth. Whoever violates any such by-law shall be punished by fine of not more than fifty dollars.

By-laws to regulate travel on roads and bridges of the commonwealth. 1864, 163, §§ 1, 2. P. S. 53, §§ 22, 23.

SECTION 22. No person shall be liable to penalty under the provisions of the four preceding sections, unless a white board containing in black letters the substance of said by-laws is kept posted in a conspicuous place at each end of the bridge. 1882, 108, § 3.

—to be posted. 1821, 101. 1829, 88, § 2. R. S. 25, §§ 46, 47. G. S. 45, § 14. P. S. 53, § 21.

SECTION 23. Whoever rides or drives a horse or mule on any part of a free bridge over the Connecticut River at a rate faster than a walk shall for each offence forfeit two dollars for each horse or mule so ridden or driven.

Fast driving on free bridges over the Connecticut River. 1873, 131, §§ 1, 2. P. S. 53, §§ 24, 25.

SECTION 24. Each city and town in which any such free bridge terminates shall cause to be kept posted and maintained in a conspicuous place on or near the end of such bridge in said city or town, a white board containing in black letters the substance of the preceding section; and a city or town which neglects to post or maintain such notice shall forfeit to the use of the county ten dollars for each day's neglect.

—warning against, to be posted. 1873, 131, § 3. P. S. 53, § 26.

SECTION 25. Police, district and municipal courts and trial justices, in the cities and towns in which the bridge terminates, shall have jurisdiction of complaints for the violation, on such bridges, of the provisions of the seven preceding sections, as if the offence were committed within such city or town.

—jurisdiction over cases of. 1873, 131, § 4. P. S. 53, § 27. 1882, 108, § 2.

SECTION 26. A city or town in which a draw for the passage of vessels through a bridge used as a way and maintained at the public expense is situated may make ordinances or by-laws regulating the passage of vessels through such draw, and may affix penalties not exceeding fifty dollars for each violation thereof; but no such ordinance or by-law shall take effect until approved by the board of harbor and land commissioners.

Regulation of passage of vessels through draw bridges, etc. 1876, 122, § 1. P. S. 53, § 28.

SECTION 27. When such ordinances or by-laws have been approved, the city or town shall place said draw under the direction of a suitable draw tender, and shall post a copy of such ordinances or by-laws in some conspicuous place near by.

Draw tenders appointed, and ordinance posted. 1876, 122, § 2. P. S. 53, § 29.

SECTION 28. Such draw tender shall have full control of the passing of vessels through the draw, shall furnish all facilities for such passing, shall allow no detention, having due regard for the public travel, and shall enforce the ordinances or by-laws aforesaid.

—to have control of passage of vessels, and enforce ordinance. 1876, 122, § 3. P. S. 53, § 30.

SECTION 29. If a vessel, through the negligence of the persons having charge of her, or through their neglect to comply with such ordinances or by-laws, or disregard of the directions of such draw tender, injures a bridge or draw, or a pier or wharf connected therewith, the owner of such vessel shall be liable to such city or town for the damage.

Owners of vessels liable for injury to bridge. 1876, 122, § 4. P. S. 53, § 31.

Draw tender may remove vessel obstructing draw, etc.
1876, 122, § 5.
P. S. 53, § 32.

SECTION 30. Such draw tender may remove a vessel which obstructs such draw, or interferes with the passage of other vessels through the same, or is made fast, without his consent, to such draw or bridge or to a pier or wharf connected therewith, or which wilfully violates any such ordinance or by-law; and the expense of such removal may be recovered of the owner by the city or town.

Weight of load on certain ways.
1813, 160, § 4.
R. S. 39, § 43.
1838, 104.
1840, 69.
G. S. 62, §§ 23, 24.
P. S. 108, §§ 4, 5.
10 Pick. 35.

SECTION 31. If a person, without the consent of the person or corporation required by law to keep a bridge in repair or his or its agent, permits more than twenty neat cattle or horses to be upon a bridge which is more than fifty feet from one abutment, pier or trestle part to another or drives or transports over such bridge a vehicle with a load exceeding forty-five hundred pounds in weight exclusive of the team and vehicle, and thereby breaks or injures the bridge, such person or corporation shall not be liable to such person for any damage caused thereby. No such person or corporation shall be liable for a defect in a bridge to a person the weight of whose carriage and load thereon exceeds six tons.

Fencing dangerous canals.
1887, 393, § 1.

SECTION 32. If the city council of a city or the selectmen of a town shall, after notice in writing to the parties in interest, adjudge a canal or water way within the limits of the city or town to be dangerous to public travel, they may by an order in writing require any person owning, operating or controlling said canal or waterway to fence the same.

Cost and penalty.
1887, 393, § 2.

SECTION 33. If such order is not complied with within sixty days after written notice of it has been given, the city council or the selectmen shall cause the same to be fenced and may collect the cost thereof in an action of contract from the person required to fence the same, who, for such neglect, shall also be liable to a fine of not less than fifty nor more than one hundred dollars.

CHAPTER 53.

OF THE BOUNDARIES OF HIGHWAYS AND OTHER PUBLIC PLACES AND ENCROACHMENTS THEREON.

Fences, etc., when boundaries of ways, etc.
1734-5, 2, § 2.
1786, 67, § 7.
R. S. 24, § 61.
G. S. 46, § 1.
P. S. 54, § 1.
2 Pick. 47.
17 Pick. 309.
8 Met. 578.
13 Met. 115.
11 Cush. 487.
4 Gray, 215.
15 Gray, 573.
3 Allen, 349.
6 Allen, 20.
8 Allen, 473.
100 Mass. 159.
107 Mass. 234.
110 Mass. 527.

SECTION 1. If buildings or fences have been erected and continued for more than twenty years, fronting upon or against a highway, town way, private way, training-field, burying-place, landing-place, street, lane or alley, or other land appropriated for the general use or convenience of the inhabitants of the commonwealth, or of a county, city, town or parish, and from the length of time or otherwise the boundaries thereof are not known and cannot be made certain by the records or by monuments, such buildings or fences shall be taken to be the true boundaries thereof. If boundaries of such ways or places can be made certain any building or fence thereon may upon the presentment of a grand jury be removed as a nuisance unless it has continued at least forty years.

113 Mass. 411. 148 Mass. 309.

SECTION 2. If such building, fence or other encumbrance is adjudged a nuisance and ordered to be abated, the materials may be sold at auction and the proceeds applied to the payment of the expenses of the prosecution and removal, and, if insufficient, the court may order the amount to be raised and levied upon the property of the defendant.

Removal of building adjudged a nuisance. Costs.
1786, 81, § 6.
R. S. 24, § 63.
G. S. 46, § 3.
P. S. 54, § 3.
8 Met. 584.

SECTION 3. Any person may remove gates, rails, bars or fences which are upon or across a highway, town way or private way legally laid out, or they may be removed by the order of a justice of the peace, unless they have been placed there to prevent the spread of a disease dangerous to the public health, or unless they have been erected or continued by the license of the county commissioners or of the selectmen or road commissioners or of the person for whose use such private way was laid out. A person aggrieved by such removal may apply to the county commissioners, selectmen or road commissioners, respectively, and if upon examination it appears that such gates, rails, bars or fences were erected or continued by such license, they shall order the same to be replaced.

— of gates, rails, etc., on ways.
C. L. 65, § 3.
1693-4, 6, § 5.
1786, 81, § 5.
R.S. 25, §§ 27, 43.
G. S. 46, §§ 4, 5.
P. S. 54, §§ 4, 5.
10 Mass. 71.
8 Allen, 473.
130 Mass. 113.

SECTION 4. Whoever builds or maintains a barbed wire fence within six feet above the ground along a sidewalk located on a public way shall be punished by a fine of not less than twenty nor more than fifty dollars.

Barbed wire fences restricted.
1884, 272.
173 Mass. 429.

SECTION 5. The aldermen in cities or the selectmen in towns may cause the removal from public ways and places of unused poles, wires, structures or other appliances, at the expense of the owners thereof.

Removal of unused telegraph poles, etc.
1889, 398.
153 Mass. 200.

SECTION 6. The mayor and aldermen, selectmen, road commissioners, or any city or town officer having the care of the public ways may authorize the planting of shade trees therein, if it will not interfere with the public travel or with private rights; and shade trees standing, and trees planted, pursuant to such license, shall be the property of the person planting them, or upon whose premises they are, and shall not be deemed a nuisance; but upon complaint to the mayor and aldermen, subject to the provisions of sections seven to eleven, inclusive, such trees may be removed by them at the expense of the owner thereof, if public necessity requires.

Shade trees may be planted in ways, etc.; how removed.
1856, 256, § 1.
G. S. 46, § 6.
P. S. 54, § 6.
97 Mass. 472.
99 Mass. 597.
149 Mass. 89.
172 Mass. 525.

SECTION 7. A person shall not cut down or remove an ornamental or shade tree standing in a public way in a city unless he first gives notice of his intention to the mayor and aldermen who, if they desire to retain the tree, shall give him notice thereof within ten days thereafter; and the damage caused by retaining said tree shall be determined in the same manner as damages by an alteration in such public way.

— removal of, in cities.
1867, 242, § 1.
P. S. 54, § 10.

SECTION 8. Whoever cuts down or removes such tree in violation of the provisions of the preceding section shall forfeit not less than five nor more than one hundred dollars to the use of the city.

— penalty for unlawful removal of.
1867, 242, § 2.
P. S. 54, § 11.

Preservation of shade trees in cities.
1890, 196, §§ 1, 2, 4.
1891, 49.

SECTION 9. The mayor and aldermen of cities shall annually in September, October, November or December select trees within the limits of the highways for preservation for ornament and shade, other than those protected by the provisions of the three preceding sections, selecting at least one tree in every thirty-three feet where such trees are growing and are of a diameter of one inch or more.

Manner of designation.
1890, 196, § 2.
1891, 49.
1892, 147.

SECTION 10. Such trees shall be designated by a nail having a head with the letter M plainly impressed thereon driven into them at a point not less than four nor more than six feet from the ground and on the side toward the center of the highway. The secretary of the state board of agriculture shall procure such nails and shall, as required, furnish them to the mayor and aldermen, who shall renew such as have been defaced or destroyed.

Penalty for injuring trees, etc.
1890, 196, § 3.

SECTION 11. Whoever maliciously injures, defaces or destroys any tree thus designated, or any of said nails affixed to such trees, shall forfeit not less than five nor more than one hundred dollars, which shall be equally divided between the complainant and the city in which the offence was committed.

Tree wardens.
1896, 190, §§ 2, 4.
1897, 428, § 1.
1899, 330, §§ 1, 2.

SECTION 12. The tree warden may appoint and remove deputy tree wardens. He and they shall receive such compensation as the town determines or, in default thereof, as the selectmen allow. He shall have the care and control of all public shade trees in the town, except those in public parks or open places under the jurisdiction of the park commissioners, and of those, if so requested in writing by the park commissioners, and shall enforce all the provisions of law for the preservation of such trees. He shall expend all money appropriated for the setting out and maintenance of such trees. Regulations for their care and preservation made by him, approved by the selectmen and posted in two or more public places, imposing fines and forfeitures of not more than twenty dollars in any one case, shall have the force and effect of town by-laws. All shade trees within the limits of a public way shall be public shade trees.

Removal of shade trees in towns.
1867, 242, § 1.
P. S. 54, §§ 10, 11.
1896, 190, § 3.
1897, 428, § 1.
1899, 330, § 3.

SECTION 13. Public shade trees outside the residential part of a town, as determined by the selectmen, shall not be cut or removed, in whole or in part, except by the tree warden or his deputy or by a person holding a license so to do from the tree warden. Public shade trees within said residential part shall not be cut, except for trimming by the tree warden, nor shall they be removed by the tree warden or his deputy or other person without a public hearing at a suitable time and place, after notice thereof posted in two or more public places in the town and upon the tree and after authority granted by the tree warden therefor. Whoever violates the provisions of this section shall forfeit not less than five nor more than one hundred dollars to the use of the town.

Forester; duties.
1897, 254, §§ 1-3.

SECTION 14. In a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the selectmen shall, until the revocation of such acceptance, annually appoint a forester and may at any time remove him from office and fill vacancies. He shall have charge of all trees except

public shade trees within the limits of a highway or other public way or square in such town.

SECTION 15. The provisions of sections six, seven, nine, twelve, thirteen and fourteen shall be subject to the provisions of section four of chapter twenty-eight. Application of certain sections.

SECTION 16. The governor may annually issue a proclamation setting apart the last Saturday in April as Arbor Day and recommending that it be observed in the planting of trees, shrubs and vines, in the promotion of forest growth and culture, in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of such day. Arbor Day. Res. 1886, 32.

SECTION 17. No highway, town way, street, turnpike, canal, railroad or street railway shall be laid out or constructed over a common or park dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years; nor shall any part of such common or park be taken for widening or altering a highway, town way or street, except with the consent of the inhabitants of the city or town, after public notice, given in the manner provided in cases of the location and alteration of highways, stating the extent and limits of the portion thereof proposed to be taken. Such consent shall be expressed by vote of the inhabitants, if ten or more voters file a request in writing to that effect with the selectmen or the mayor and aldermen within thirty days after the publication of the notice; in the absence of such request, consent shall be presumed. Streets, etc., not to be laid out over a common, etc. 1875, 163, § 1. P. S. 54, § 13. 166 Mass. 366.

SECTION 18. In a city, such vote shall be taken by ballot, "yes" or "no", in answer to the question of giving such consent, at meetings in the several wards on a day appointed for the purpose by the mayor and aldermen. Such meetings shall be notified and warned by the mayor and aldermen fourteen days at least before the day appointed therefor, and may be held on the same day with any election, if so appointed. The votes shall be received, sorted and counted, and declaration and return thereof made, and the returns from the several wards examined and the result ascertained in the same manner as at elections. All provisions of law relative to elections shall be applicable to such meetings, and a certificate of the result shall be recorded by the city clerk. In cities, consent, how expressed. 1875, 163, § 2. P. S. 54, § 14.

SECTION 19. Land of a public institution belonging to the commonwealth shall not be taken for a highway, town way, street, turnpike, canal, railroad or street railway without leave of the general court. Taking of lands of a public institution regulated. 1875, 163, § 3. P. S. 54, § 15.

SECTION 20. No building, except as provided in section eleven of chapter twenty-eight, which exceeds six hundred square feet in area upon the ground shall be erected in or upon a common or park dedicated to the use of the public without leave of the general court. The superior court shall have jurisdiction in equity, upon petition of not less than ten taxable inhabitants of the city or town in which such common or park is located, to restrain any violation of the provisions of this section. Buildings on public parks regulated. 1877, 223, §§ 1, 2. P. S. 54, §§ 16, 17. 164 Mass. 419. 166 Mass. 366.

CHAPTER 54.

OF THE LAW OF THE ROAD.

Persons meeting to turn to right.
1820, 65, § 1.
R. S. 51, § 1.
G. S. 77, § 1.
P. S. 93, § 1.
1 Pick. 345.
4 Pick. 125.
23 Pick. 201.
8 Met. 213.

SECTION 1. When persons meet on a bridge or way, travelling with carriages, wagons, carts, sleds, sleighs, bicycles or other vehicles, each shall seasonably drive his carriage or other vehicle to the right of the middle of the travelled part of such bridge or way, so that their respective carriages or other vehicles may pass without interference.

11 Met. 404. 10 Cush. 495. 11 Gray, 418. 8 Allen, 436. 100 Mass. 313.
12 Met. 415. 2 Gray, 181. 3 Allen, 176. 12 Allen, 84. 158 Mass. 17, 46.

Persons passing in same direction to turn to left.
G. S. 77, § 2.
P. S. 93, § 2.
121 Mass. 216.

SECTION 2. The driver of a carriage or other vehicle passing a carriage or other vehicle travelling in the same direction shall drive to the left of the middle of the travelled part of a bridge or way; and if it is of sufficient width for the two vehicles to pass, the driver of the leading one shall not wilfully obstruct the other.

Bells to be used with sleighs.
1820, 65, § 2.
R. S. 51, § 2.
G. S. 77, § 3.

SECTION 3. No person shall travel on a bridge or way with a sleigh or sled drawn by a horse, unless there are at least three bells attached to some part of the harness.

P. S. 93, § 3. 11 Gray, 342. 8 Allen, 436.

Penalties.
1820, 65, § 4.
R. S. 51, § 3.
G. S. 77, § 4.
P. S. 93, § 4.
11 Met. 403.
2 Gray, 181.
11 Gray, 342.

SECTION 4. Whoever violates the provisions of this chapter shall, upon complaint made within three months after the commission of the offence, forfeit not more than twenty dollars, and be liable in an action commenced within twelve months after the date of said violation for all damage caused thereby.

8 Allen, 436. 100 Mass. 313. 119 Mass. 66. 158 Mass. 46.

CHAPTER 55.

OF FERRIES AND CANALS.

SECTIONS 1–8. — Ferries.
SECTIONS 9–11. — Canals.

FERRIES.

Ferrymen to be licensed by county commissioners.
1694–5, 16, § 1.
1796, 42, § 1.
R. S. 26, §§ 1, 2.

SECTION 1. The county commissioners may license for such time as they determine any suitable person to keep a ferry and receive pay, and may revoke such license when necessary. They shall in all cases take a bond with sufficient sureties of each ferryman for the faithful performance of his duty.

G. S. 47, §§ 1, 2. P. S. 55, §§ 1, 2. 23 Pick. 212. 123 Mass. 460.

Tolls to be established by commissioners.
1694–5, 16, § 1.
1759–60, 21, § 1.
1764–5, 31.

SECTION 2. The commissioners shall establish at each ferry the fares or tolls for passengers, horses, carriages and other things there transported, always having regard to the length and situation of the ferry and to the number of persons passing the same. The pro-

visions of this and the preceding section shall not apply to ferries established by law prior to the thirtieth day of April in the year eighteen hundred and thirty-six.

1796, 42, § 1. R. S. 26, § 2. G. S. 47, § 2. P. S. 55, § 2.

SECTION 3. Each ferryman shall keep sufficient and safe boats in good repair and shall give ready attendance on passengers on all occasions according to the regulations established for his ferry. If he neglects to keep such boats or to give such attendance, he shall forfeit not more than twenty dollars, and be liable for all damages caused thereby. P. S. 55, § 3.

Safe boats to be kept at ferries, etc. Penalty. 1694–5, 16, § 1. 1759–60, 21, § 1. 1764–5, 31. 1796, 42, § 2. R. S. 26, §§ 3, 4. G. S. 47, § 3.

SECTION 4. Whoever suffers damage by the negligence or default of a ferryman may recover the same by an action upon his bond required in this chapter; which may be prosecuted as an action brought on the bond of a sheriff is prosecuted. 8 Gray, 547.

Remedy for damage by default of ferrymen. R. S. 26, § 5. G. S. 47, § 4. P. S. 55, § 4.

SECTION 5. Whoever without license keeps a ferry and demands or receives pay or toll therefor shall forfeit not more than five dollars for each day during which he keeps such ferry, and shall be liable for all damages caused thereby to any person authorized to keep a ferry. P. S. 55, § 5.

Penalty for keeping ferry without authority. 1726–7, 14. 1796, 42, § 3. R. S. 26, § 6. G. S. 47, § 5.

SECTION 6. If the commissioners determine that it is necessary to establish a ferry, and no person appears to keep it for the profits thereof, the town in which such ferry is required shall provide a person to keep it at such place and seasons as the commissioners order. Such persons shall be licensed as aforesaid, and the expense of maintaining such ferry, in excess of the amount received for tolls, shall be paid by the town.

When towns to maintain ferry. 1796, 42, § 4. R. S. 26, § 7. G. S. 47, § 6. P. S. 55, § 6.

SECTION 7. The commissioners may, either when such ferry is established between two towns or at any time thereafter, upon the application of ten voters of either town and after notice to both towns and a hearing, order that such towns shall maintain said ferry either jointly or alternately, and shall adjudge in what proportion they shall bear the expense of such maintenance; or the commissioners may, from time to time, upon a new application and after notice and a hearing, revise such order, and their determination shall be final in all cases.

Apportionment of expense of ferries between towns. 1759–60, 21, § 2. 1764–5, 31. 1796, 42, § 5. R. S. 26, § 8. G. S. 47, § 7. 1874, 265, § 1. P. S. 55, § 7.

SECTION 8. A town which neglects to maintain a ferry as provided in the two preceding sections shall forfeit not more than one hundred dollars for each month such neglect continues.

Penalty for neglect to maintain ferry. 1759–60, 21, § 3. 1764–5, 31.

1796, 42, § 6. R. S. 26, § 9. G. S. 47, § 8. 1874, 265, § 2. P. S. 55, § 8.

CANALS.

SECTION 9. The master or conductor of a boat laden with goods, wares or merchandise which enters the waters of a canal to be carried thereon, shall exhibit a certificate signed by him to the collector of tolls, stating the name of the owner of the boat, the name of the place to which it is destined and the quantity or weight of the respective articles laden on board, distinguishing each article, as to quantity or weight, according to the toll which it is liable to pay. A conductor or master who neglects or refuses to exhibit

Master of canal boat to exhibit certificate to collector. 1834, 154, § 1. R. S. 39, § 88. G. S. 62, § 20. P. S. 108, § 1.

such certificate, or knowingly, and with intent to defraud the proprietors of the canal, makes or delivers a false certificate of the kind or quantity of goods, wares or merchandise laden on board such boat shall forfeit one hundred dollars. The proprietors shall prepare the proper blank forms of certificates of loading; and masters and conductors of boats shall be entitled to use them without expense.

Penalty for false statement.
1834, 154, § 2.
R. S. 39, § 90.
G. S. 62, § 21.
P. S. 108, § 2.

SECTION 10. Whoever knowingly and with intent to defraud such proprietors makes or causes to be made a false statement of the quantity or quality of goods, wares or merchandise laden or to be laden on board of a boat used on such canal shall forfeit one hundred dollars.

Collector may require load to be weighed. Cost, by whom paid.
1834, 154, § 3.
R. S. 39, § 91.
G. S. 62, § 22.
P. S. 108, § 3.

SECTION 11. A collector of tolls on a canal may detain a boat and cause the goods, wares and merchandise laden on board to be weighed; and if it is found that the loading is greater than the quantity stated in the certificate, the master or conductor of the boat, in addition to the penalty hereinbefore provided, shall pay the costs and charges of unloading, weighing and reloading such goods, wares or merchandise; but if it is found that the quantity is not greater than is stated in the certificate, the proprietors of the canal shall pay all such costs and charges, and be liable in an action of tort for all damages caused by such detention.

TITLE XII.

OF THE REGULATION OF TRADE.

CHAPTER 56. — Of the Regulation of Trade and the Inspection and Sale of Food.
CHAPTER 57. — Of the Inspection and Sale of Various Articles.
CHAPTER 58. — Of the Inspection of Gas and Gas Meters.
CHAPTER 59. — Of the Measuring of Upper Leather.
CHAPTER 60. — Of the Survey and Sale of Lumber, Ornamental Wood and Ship Timber.
CHAPTER 61. — Of the Surveying of Land.
CHAPTER 62. — Of Weights and Measures.
CHAPTER 63. — Of the Metric System of Weights and Measures.
CHAPTER 64. — Of Auctioneers.
CHAPTER 65. — Of Itinerant Vendors, Hawkers and Pedlers.
CHAPTER 66. — Of Shipping and Seamen, Harbors and Harbor Masters.
CHAPTER 67. — Of Pilots and Pilotage.
CHAPTER 68. — Of Agents, Consignees and Factors.
CHAPTER 69. — Of Public Warehouses.
CHAPTER 70. — Of Common Carriers and Express Companies.
CHAPTER 71. — Of Limited Partnerships.
CHAPTER 72. — Of the Use of Labels, Trade Marks and Names.
CHAPTER 73. — Of Money and Negotiable Instruments.

CHAPTER 56.

OF THE REGULATION OF TRADE AND THE INSPECTION AND SALE OF FOOD.

SECTIONS 1, 2. — General Provisions.
SECTIONS 3–34. — Fish.
SECTIONS 35–50. — Butter, Cheese and Lard.
SECTIONS 51–69. — Milk.
SECTIONS 70–76. — Meat and Provisions.

GENERAL PROVISIONS.

Protection of trader. 1901, 478.

SECTION 1. A person, firm, corporation or association of persons, doing business in this commonwealth, shall not make it a condition of the sale of goods, wares or merchandise that the purchaser shall not sell or deal in the goods, wares or merchandise of any other person, firm, corporation or association of persons; but the provisions of this section shall not prohibit the appointment of

agents or sole agents for the sale of, nor the making of contracts for the exclusive sale of, goods, wares or merchandise. Whoever, as principal or agent, violates the provisions of this section shall be punished for the first offence by a fine of not less than fifty nor more than one hundred dollars; and for each succeeding offence by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Penalties as to marks or brands.
R. S. 28, § 56.
G. S. 49, § 20.
P. S. 56, § 13.

SECTION 2. Whoever counterfeits any brand required by this chapter or without authority marks or brands any article required to be inspected, or marks or brands with any counterfeited brand, shall for each offence forfeit not more than two hundred dollars; and whoever alters or defaces any marks or brands made by an inspector or his deputy under the provisions of this chapter shall forfeit not more than twenty-five dollars.

FISH.

Inspector general of fish.
1803, 55, § 2.
1809, 120, § 2.
R. S. 28, §§ 1-3, 69.
1846, 170, § 2.
G. S. 49, §§ 1, 33.
P. S. 56, §§ 1, 22.

SECTION 3. There shall be an inspector general of fish, who shall be appointed by the governor, with the advice and consent of the council, for a term of five years from the time of his appointment, unless sooner removed by the governor and council, who shall be sworn and who shall give bond with sufficient sureties to the treasurer and receiver general in the penal sum of ten thousand dollars. He shall have no interest, directly or indirectly, in the cure or packing of pickled fish.

Deputy inspectors.
1809, 120, § 2.
1815, 38, § 3.
R. S. 28, §§ 4, 70.
1853, 160, § 1.
G. S. 49, §§ 2, 34.
P. S. 56, §§ 2, 23.
15 Pick. 264.

SECTION 4. He may appoint in every town in which fish is packed for export deputy inspectors, for whose official conduct he shall be answerable, who shall be sworn before him or before a justice of the peace, who shall give bond to him with sufficient sureties and who shall be removable at his discretion. Each deputy shall pay to the inspector one dollar and no more for his commission and bond and shall, once in six months, make the returns to him necessary to carry into effect the provisions of this chapter.

Returns.
1807, 54, §§ 3, 4.
1815, 38, §§ 1, 2.
R. S. 28, § 72.
1859, 102.
G. S. 49, § 53.
P. S. 56, § 41.

SECTION 5. The inspector general shall annually, in January, make a return to the secretary of the commonwealth of all the fish inspected by him and his deputies during the preceding year, designating the quantities, kinds and qualities of pickled and smoked fish inspected, distinguishing those re-inspected; and the secretary shall cause it to be published in any newspaper in Boston authorized to publish the laws of the commonwealth.

Inspection and packing of fish.
1803, 55, § 2.
1807, 54, § 4.
R. S. 28, § 71.
G. S. 49, § 35.
P. S. 56, § 24.
1901, 321.

SECTION 6. The inspector general of fish and his deputies shall inspect all fish, the inspection of which is required by this chapter. Fish which are intended for sale or export and which are subject to inspection under the provisions of the following sections may be packed in any manner which may be agreed upon by the buyer and seller, without inspection or branding; but if, at the time of purchase, the buyer so requires, such fish shall be inspected according to the provisions of the following sections and the buyer shall pay all the expenses of inspecting and repacking.

Packing and branding.
C. L. 17.
1756–7, 17, § 2.
1803, 55, §§ 3, 4; 155, § 5.
1809, 120, § 3.
1819, 17.
1830, 84.
1834, 147.
R. S. 28, § 73.
1839, 132, §§ 1, 2.
1850, 131.
G. S. 49, § 36.
1879, 171, § 1.
P. S. 56, § 25.

SECTION 7. Under the supervision of the inspector general and his deputies, respectively, all kinds of split pickled fish and fish for barrelling, all codfish tongues and sounds, halibut fins and napes, and swordfish, if said articles are intended for export, shall be well struck with salt or pickle in the first instance, and preserved sweet and free from rust, taint or damage; and if they are found in good order and of good quality, they shall be packed in tierces containing three hundred pounds each, in barrels containing two hundred pounds each, in half barrels containing one hundred pounds each, or in packages containing less than one hundred pounds each, on which the number of pounds therein shall be plainly and legibly branded. Every cask, kid or package shall be packed with good clean salt suitable for the purpose, and, after packing with sufficient salt to preserve its contents, shall be headed or well secured and filled up with a clean strong pickle.

Mackerel, salmon, shad, etc., number, measure, and quality of.
1804, 112, § 1.
1809, 120, § 3.
1830, 84, § 5.
1834, 147, § 4.
R. S. 28, § 73.
1836, 154.
1846, 170, § 1.
G. S. 49, § 37.
P. S. 56, § 26.
12 Allen, 39.

SECTION 8. There shall be five qualities of mackerel, three of salmon and shad and two of other kinds of pickled fish. Mackerel of the best quality, not mutilated, measuring not less than thirteen inches from the extremity of the head to the crotch or fork of the tail, free from rust, taint or damage, shall be branded *number one*. The next best quality, not less than eleven inches, measuring as aforesaid, free from rust, taint or damage, shall be branded *number two*. Those that remain after the above selections, if free from taint or damage, and not less than thirteen inches, measuring as aforesaid, shall be branded *number three, large*. Those of the next inferior quality, free from taint or damage, not less than ten inches, measuring as aforesaid, shall be branded *number three*. All other mackerel free from taint or damage shall be branded *number four*. Salmon and shad which are of the best quality for family use, free from rust or damage, shall be selected for number one and number two, the best of them selected and branded *number one*, and the residue *number two;* and all that remain, sound and free from taint, shall be branded *number three*. Of all other pickled fish, the best, which are free from taint and damage, shall be branded *number one*, and those that remain, sound and free from taint, *number two*.

Casks, etc., to contain one kind of fish; penalty for shifting contents.
1784, 30, § 12.
1803, 55, § 3; 155, §§ 1, 3, 6.
1804, 4, § 2.
1809, 120, § 3.
R. S. 28, § 74.

SECTION 9. Each cask, kid or package shall be filled with fish of the same kind, or parts of the same kind of fish; and whoever intermixes, takes out or shifts any inspected fish which are packed or branded as aforesaid, or puts in other fish for sale or export, shall forfeit fifteen dollars for each package so altered. If any casualty renders it necessary to repack a cask of inspected fish, it shall in all cases be done by an inspector of fish.

1839, 132, § 1. G. S. 49, § 38. P. S. 56, § 27.

— how branded.
1756–7, 17, § 2.
1803, 55, § 3.
1804, 112, § 2.
1809, 120, § 3.
1830, 84, § 4.
1834, 147, §§ 1–3.
R. S. 28, § 75.
G. S. 49, § 39.
P. S. 56, § 28.

SECTION 10. The inspector shall brand in plain legible letters on the head of each cask of fish inspected by him the denomination of the fish packed or repacked therein, his name, and, if a deputy, the name of the place for which he is appointed, the letters MASS., and the year in which the fish are packed; and he shall also, if in his judgment it may be necessary, nail in a suitable manner any cask in which fish are packed.

Inspectors may enter stores, etc., to examine fish.
1879, 171, § 3.
P. S. 56, § 29.

SECTION 11. The inspector general of fish, or a deputy specially authorized by him for that purpose, may at all reasonable times enter upon any wharf and into any store, warehouse, or other place where the packing of pickled fish is carried on in this commonwealth, for the purpose of inspecting, examining and supervising the packing and inspecting of such fish, and may examine and weigh any packages of such fish for the purpose of ascertaining whether they are fit for export in accordance with the requirements of law.

Certain fish not to be re-inspected.
1829, 31.
R. S. 28, § 77.

SECTION 12. Pickled fish, which have been duly inspected in the state or country in which they are packed, shall not be subject to re-inspection in this commonwealth. G. S. 49, § 42. P. S. 56, § 30.

Small fish, how to be packed.
1809, 120, § 4.
1817, 70.
R. S. 28, § 76.
G. S. 49, § 43.
P. S. 56, § 31.

SECTION 13. Small fish which are usually packed whole with dry salt or pickle shall be put in good casks of the size and materials required in this chapter for the packing of split pickled fish, and shall be packed close in the cask and well salted; the casks shall be filled with the fish and salt, and no more salt shall be put with the fish than is necessary for their preservation; and the casks containing such whole fish shall be branded with the name of the fish and a like designation of the qualities as is before provided in this chapter relative to the qualities of other pickled fish.

Casks, quality and capacity of.
C. L. 16.
1692–3, 17, § 1.
1756–7, 17, § 1.
1803, 55, § 1; 155, §§ 1, 2.
1804, 4, § 3.
1809, 120, § 1.
1834, 42.
R. S. 28, § 78.
G. S. 49, § 44.
1867, 3.
P. S. 56, § 32.

SECTION 14. Casks which are used for packing or repacking pickled fish intended for export, unless they contain less than twenty-five pounds weight, shall be made of sound, well-seasoned white oak, ash, red oak, spruce, pine or chestnut staves, with headings of either of said kinds of wood, and, if of pine, such headings shall be free from sap and knots and planed; the barrels, half barrels and tierces shall be well hooped with at least three good hoops of sufficient substance on each bilge, and three hoops of the like quality on each chime; the barrel staves shall be twenty-eight inches in length, and the heads shall be seventeen inches between the chimes; the barrels shall contain not less than twenty-eight nor more than twenty-nine gallons each, the half barrels not less than fifteen gallons each and the tierces not less than forty-five nor more than forty-six gallons each. Each cask shall be made in a workmanlike manner, and branded on its side near the bung with the name of the maker.

Casks to be examined.
1830, 84, § 4.
R. S. 28, § 79.
G. S. 49, § 45.
P. S. 56, § 33.

SECTION 15. The inspector general or his deputies shall strictly examine and inspect all casks in which fish are required to be packed, and shall reject such as are not made in a substantial manner and according to the provisions of law.

Fees for inspecting, etc.
C. L. 53.
1723–4, 6, § 6.
1726–7, 1, § 10.
1731–2, 2, § 9.
1803, 55, § 7.
1804, 112, § 3.
1809, 120, § 7.
1817, 34, § 2.
1824, 146.
1829, 47.
1830, 84, § 3.
R. S. 28, § 80.

SECTION 16. The fees for inspecting and branding, exclusive of cooperage, shall be, for each tierce, fourteen cents; for each barrel, nine cents; for each half barrel, six cents; for each cask of a smaller denomination, three cents; and, in addition to the fees aforesaid, one cent for each cask nailed as before provided; and all fees shall, in the first instance, be paid by the original owner of the fish or by the person employing the inspector, and may be recovered by them respectively of the purchaser or exporter.

1838, 84, § 5. G. S. 49, § 46. P. S. 56, § 34.

SECTION 17. The inspector general may receive from each of his deputies for every cask of fish inspected by him the following fees: for each tierce, four cents; for each barrel, one cent; for each half barrel and package of less than one hundred and more than fifty pounds, one-half of a cent; and for each package of fifty pounds or less, one-quarter of a cent.

Inspector's proportion of deputies' fees.
1809, 120, § 7.
R. S. 28, § 81.
G. S. 49, § 47.
1879, 171, § 2.
P. S. 56, § 35.

SECTION 18. Smoked alewives or herrings intended to be packed for sale or export shall be sufficiently salted and smoked to cure and preserve them, and shall afterwards be closely packed in boxes in clear and dry weather. P. S. 56, § 36.

Alewives and herrings, how prepared and packed.
1807, 54, § 1.
R. S. 28, § 82.
G. S. 49, § 48.

SECTION 19. Smoked alewives or herrings shall be divided and sorted by the inspector or his deputy, and designated, according to their quality, *number one* and *number two*. Number one shall consist of all the largest and best cured fish; number two, of the smaller but well-cured fish; and in all cases, those which are belly broken, tainted, scorched or burnt, slack salted or not sufficiently smoked shall be taken out as refuse.

— how sorted and numbered.
1807, 54, § 2.
R. S. 28, § 83.
G. S. 49, § 49.
P. S. 56, § 37.

SECTION 20. Boxes used for packing smoked alewives or herrings shall be made of good sound boards sawed and well seasoned, the sides, top and bottom of not less than half inch and the ends of not less than three-quarters inch boards, securely nailed; and such boxes shall be seventeen inches in length, eleven inches in breadth and six inches in depth, in the clear, inside.

Boxes, quality and capacity of.
1807, 54, § 1.
R. S. 28, § 84.
G. S. 49, § 50.
P. S. 56, § 38.

SECTION 21. Each box of alewives or herrings inspected shall be branded on the top by the inspecting officer with his name, the name of the town where it was inspected, the letters MASS., and the quality, *number one* or *number two*, as the case may be. Herrings taken on the coasts of Nova Scotia, Newfoundland, Labrador, or of the Magdalen Islands, and brought into this commonwealth shall also be branded with the name of the place or coast where they were taken.

Brands.
1807, 54, § 2.
R. S. 28, § 85.
1839, 132, § 3.
G. S. 49, § 51.
P. S. 56, § 39.

SECTION 22. The fees for inspecting, packing and branding shall be five cents for each box, and shall be paid by the purchaser. The inspector general may require from his deputies one cent for each box inspected, packed and branded by them.

Fees for inspecting, etc.
1807, 54, § 4.
R. S. 28, § 86.
G. S. 49, § 52.
P. S. 56, § 40.

SECTION 23. No smoked alewives or herrings shall be exported from this commonwealth, unless inspected and branded as aforesaid, under a penalty of two dollars for each box exported; nor shall alewives or herrings be taken from a box inspected and branded as aforesaid, and replaced by others of an inferior quality with intent to defraud any person in the sale of the same, under a penalty of five dollars for each box so changed; but smoked herrings and alewives arriving from any other state in the United States, and having been there inspected, may be exported in a vessel from this commonwealth without being re-inspected.

Penalty for exporting alewives not inspected, etc.
1718-19, 4, §§ 2, 3.
1726-7, 6, § 4.
1731-2, 2, § 4.
1807, 54, § 5.
1817, 34, § 1.
1824, 3, § 1.
R. S. 28, § 87.
G. S. 49, § 54.
P. S. 56, § 42.

SECTION 24. If any person puts or receives on board a vessel, or into a carriage of conveyance, for sale within or transportation

— for lading uninspected fish.

1756-7, 17, § 3. 1784, 31, § 15. 1793, 43. 1803, 55, §§ 5, 6, 9; 155, § 5. 1809, 120, §§ 6, 9. 1817, 34, § 1. R. S. 28, §§ 88, 89; 118, §§ 20, 21.

from this commonwealth, pickled fish or smoked fish not inspected and branded as required by law, he shall forfeit not more than ten dollars for every hundred pounds of such fish, and in the same proportion for any other quantity, and such fish shall be forfeited and the inspector general or a deputy may seize and libel the same.

G. S. 49, §§ 55, 56. P. S. 56, §§ 43, 44.

Penalty for selling tainted fish for food. 1809, 120, § 3. R. S. 28, § 90. G. S. 49, § 57. P. S. 56, § 45.

SECTION 25. Whoever sells within this commonwealth or exports therefrom tainted or damaged fish, unless with the intent that the same shall be used for some other purpose than as food, shall forfeit ten dollars for every hundred pounds of such fish, and in the same proportion for any other quantity; and upon a trial in such case the burden of proof shall be upon the defendant to show for what purpose such fish was so exported or sold.

— for branding without inspecting, etc. 1803, 55, § 8. 1809, 120, § 8. R. S. 28, § 91. G. S. 49, § 58. P. S. 56, § 46.

SECTION 26. If the inspector general or a deputy inspector brands a cask or package of fish, the contents of which he has not duly inspected, packed, salted or coopered, or permits any other person to use his brands in violation or evasion of the provisions of this chapter, he shall forfeit twenty dollars for each offence, and be liable to removal from office.

Quintal, weight of. 1837, 166. G. S. 49, § 59. P. S. 56, § 47.

SECTION 27. If fish are sold by the quintal, it shall be understood to mean a quintal of one hundred pounds avoirdupois, and all contracts relative to fish sold in this manner shall be construed accordingly.

Clam bait, contents of barrel of, etc. 1803, 155, § 7. 1838, 124. 1840, 63. 1844, 51. 1849, 48, §§ 1, 2. G. S. 49, § 60. 1867, 347, § 1. P. S. 56, § 48.

SECTION 28. If clam bait is sold by the barrel, it shall be construed to mean a fish barrel of not more than twenty-nine nor less than twenty-eight gallons, and containing twenty-six gallons of clams and not over three gallons of pickle. If a disagreement arises between the purchaser and seller respecting the quantity in a barrel, either party may have the barrel measured by the inspector of fish; and if it does not contain the aforesaid number of gallons of clams, the seller shall receive pay for the number of gallons it contains, and shall pay the expense of measuring and coopering; otherwise the purchaser shall pay such expense.

Weighers of fish. 1888, 163, § 1.

SECTION 29. The mayor and aldermen of cities and the selectmen of towns, in which salt water fish are landed from vessels, shall annually appoint a public weigher of fish, who shall hold office for one year from the time of his appointment and until his successor is appointed, shall be sworn to the faithful performance of his official duties and shall give bond with sureties in the sum of five thousand dollars.

Deputies. 1888, 163, § 2.

SECTION 30. He may appoint, subject to the approval of the mayor of the city or the chairman of the selectmen of the town, deputy weighers for whose official conduct he shall be answerable, who shall be sworn, and from each of whom such weigher shall require a bond with sureties in the sum of one thousand dollars. The weigher and his deputies shall not be interested directly or indirectly in the buying or selling of fish.

SECTION 31. All fish when landed from vessels or boats shall be weighed by such weigher or his deputies, upon the request or demand of the buyer or seller of such fish or of the master, agents or a majority of the crew of such vessel or boat; and the weigher shall issue a certificate of weight to the seller and a duplicate to the buyer.

Fish to be weighed upon request or demand. 1888, 163, § 3.

SECTION 32. The deputies shall make report to the weigher of the fish weighed by them, and he shall keep a complete record of such weight with the date of weighing, the name of the vessel from which the fish were taken and the person for whom the fish were weighed. Such scales, beams, measures or balances as may be required by the weigher or his deputies shall be properly sealed according to law and be under his supervision.

Record of weight, etc., to be kept. 1888, 163, § 4.

SECTION 33. The fees for weighing shall be twenty cents per one thousand pounds, but in no case less than one dollar, and shall be paid by the person applying to have the fish weighed. The deputies shall pay to the weigher two cents per one thousand pounds for all fish weighed by them.

Fees for weighing. 1888, 163, § 5.

SECTION 34. A weigher or any of his deputies who violates his oath of office shall be liable to a penalty of not less than twenty-five nor more than one hundred dollars and shall forfeit his position.

Penalty on weigher, etc., for violating oath of office. 1888, 163, § 6.

BUTTER, CHEESE AND LARD.

SECTION 35. For the purposes of sections thirty-six to forty-seven, inclusive, the word "oleomargarine" shall, in addition to its ordinary meaning, include "butterine", "imitation butter" and any article, substance or compound made in imitation or semblance of butter or as a substitute for butter and not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream, and for the purposes of sections thirty-seven, thirty-eight and forty-one to forty-seven, inclusive, the terms "butter" and "cheese" shall mean the products which are usually known by these names and are manufactured exclusively from milk or cream, with salt and rennet, and with or without coloring matter.

Definition of "oleomargarine", "butter" and "cheese". 1881, 292, § 5. P. S. 56, § 21.

SECTION 36. Whoever, himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, oleomargarine shall have the word "*oleomargarine*" or "*butterine*" stamped, labelled or marked, so that said word cannot be easily defaced, upon the top, side and bottom of every tub, firkin, box or package containing any of said oleomargarine. Whoever, himself or by his agent, exposes or offers for sale oleomargarine not in the original package shall attach thereto in a conspicuous place a label bearing the words "*imitation butter*", or the word "*oleomargarine*" or "*butterine*". In retail sales of oleomargarine not in the original package the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*imitation butter*", or the word "*oleomargarine*" or "*butterine*". All said stamps, labels and marks shall be in printed letters in a

Imitation butter to be marked. 1878, 106, § 1. 1881, 292, § 1. P. S. 56, § 17. 1884, 310, § 1. 1885, 352, § 1. 1886, 317, § 1. 148 Mass. 174. 150 Mass. 328. 157 Mass. 405, 408.

straight line of plain, uncondensed gothic type, not less than one-half inch in length.

Imitation cheese to be marked. 1881, 292, § 2. P. S. 56, § 18. 1885, 352, § 2.

SECTION 37. Whoever, himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute for cheese, and not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream, shall have the words "*imitation cheese*" stamped, labelled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of every cheese-cloth or band around the same, and upon the top and side of every tub, firkin, box or package containing any of said article, substance or compound. In retail sales of any of said article, substance or compound not in the original packages, the seller shall attach to each package so sold at retail, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*imitation cheese*", in printed letters of plain uncondensed gothic type, not less than one-half inch in length.

Penalty for violation of two preceding sections. 1878, 106, § 2. 1880, 199. 1881, 292, § 3. P. S. 56, § 19. 1886, 317, §§ 2, 3. 1894, 280, § 1.

SECTION 38. Whoever sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter or cheese or as a substitute for butter or cheese, except as provided in the two preceding sections, and whoever, with intent to deceive, defaces, erases, cancels or removes any mark, stamp, brand, label or wrapper provided for in said sections, or in any manner shall falsely label, stamp or mark any box, tub, article or package marked, stamped or labelled as aforesaid, or whoever, himself or by his agent, sells, exposes for sale, or has in his possession with intent to sell, oleomargarine, contained in any box, tub, article or package, marked or labelled with the word "*dairy*", or the word "*creamery*", or the name of any breed of dairy cattle, shall for the first offence forfeit one hundred dollars, and for each subsequent offence two hundred dollars to the use of the city or town in which the offence was committed.

Conveyance of oleomargarine for sale. 1886, 317, § 4.

SECTION 39. Every person who conveys oleomargarine in carriages or otherwise, for the purpose of selling the same in any city or town, shall annually, in May, be licensed by an inspector of milk of such city or town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents to the use of the city or town. The inspector shall pay over monthly to the treasurer of such city or town all money collected by him. In towns in which there is no inspector of milk, licenses shall be issued by the town clerk. Licenses shall be issued only in the names of the owners of carriages or other vehicles, and shall be conclusive evidence of ownership. No license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of carriages or other vehicles used, and the name and residence of every driver or other person engaged in carrying oleomargarine. Each licensee shall before engaging in the sale of oleomargarine cause his name, the number of his license and his place of business to be legibly placed on each outer side of all car-

riages or vehicles used by him in the conveyance and sale thereof, in gothic letters not less than one inch in length, and he shall report to the inspector any change of driver or other person employed by him which may occur during the term of his license. Whoever, without being first licensed, sells oleomargarine, or exposes or offers it for sale from carriages or other vehicles or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall, for a first offence, be punished by a fine of not less than thirty nor more than one hundred dollars, and, for a second offence, by a fine of not less than fifty nor more than three hundred dollars.

Registration of sellers of oleomargarine. 1886, 317, § 5.

SECTION 40. Every person, before selling or offering for sale oleomargarine in a store, booth, stand or market-place in a city or in a town in which an inspector of milk is appointed, shall annually, in May, register in the books of such inspector, or if there is no inspector then in the books of the town clerk, his name and proposed place of sale, and shall pay fifty cents for the registering to the use of such city or town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars.

Manufacture, possession or sale of imitation butter prohibited. 1891, 58, §§ 1, 2. 1894, 280, § 6. 1896, 377, § 1. 156 Mass. 236. 158 Mass. 172. 162 Mass. 520. 163 Mass. 169. 176 Mass. 132. 155 U. S. 461, 462.

SECTION 41. Whoever, himself or by his agent or servant, renders, manufactures, sells, offers for sale, exposes for sale, takes orders for the future delivery of, has in his possession, keeps in storage, distributes, delivers, transfers or conveys with intent to sell, within the commonwealth, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure unadulterated milk or cream of the same, shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year; but the provisions of this section shall not prohibit the manufacture or sale of oleomargarine in a separate and distinct form and in such manner as will inform the consumer of its real character, free from any coloration or ingredient which causes it to look like butter.

Complaints for violation instituted by inspectors of milk. 1881, 292, § 4. P. S. 56, § 20. 1884, 310, §§ 2, 4. 1891, 58, § 3. 132 Mass. 12. 176 Mass. 132. 177 Mass. 67.

SECTION 42. Inspectors of milk shall, if they have reasonable cause to believe that the provisions of sections thirty-six to forty-seven, inclusive, have been violated, and on the information of any person who lays before them satisfactory evidence by which to sustain such complaints, institute complaints for violations of said sections. They may enter all places in which butter, cheese or imitations thereof are stored or kept for sale, and shall take samples of suspected butter, cheese or imitations thereof and cause them to be analyzed or otherwise satisfactorily tested, and shall record and preserve the result of such analysis or test as evidence. Before commencing the analysis of any sample in proceedings under sections thirty-six, thirty-seven and thirty-eight, the analyst shall reserve and seal a portion of the sample, and, upon a complaint against any person, such reserved portion of the sample alleged to be adulterated shall, upon application, be delivered to the defendant or his attorney. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the expenses of

such prosecutions. Whoever hinders, obstructs or in any way interferes with an inspector or his agent in the performance of his duty under the provisions of this section shall be punished by a fine of fifty dollars for the first offence and of one hundred dollars for each subsequent offence.

Fraud in sale of butter.
1891, 412, § 1.
1894, 280, § 2.
156 Mass. 236.
155 U. S. 461.

SECTION 43. Whoever, himself or by his agent, sells or offers for sale to any person who asks, sends or inquires for butter, any oleomargarine, shall be punished by a fine of one hundred dollars for each offence.

Marks required on tubs, etc.
1891, 412, § 2.
1894, 280, § 3.
148 Mass. 172.
150 Mass. 327.

SECTION 44. Whoever exposes for sale oleomargarine which is not marked and distinguished by all the marks, words and stamps required by law, and does not have upon the exposed contents of every opened tub, package or parcel thereof a conspicuous placard with the word "*oleomargarine*" printed thereon in plain, uncondensed gothic letters, not less than one inch long, shall be punished by a fine of one hundred dollars for each offence.

Placard required in store.
1891, 412, § 3.
156 Mass. 236, 239.

SECTION 45. Whoever sells oleomargarine from any dwelling, store, office or public mart which does not have conspicuously posted thereon the placard or sign, in letters not less than four inches in length, "*oleomargarine sold here*", or "*butterine sold here*", approved by the dairy bureau, shall be punished by a fine of one hundred dollars for the first offence and one hundred dollars for each day's neglect after conviction for the first offence.

— on cart.
1891, 412, § 4.
1894, 280, § 4.
158 Mass. 218.
162 Mass. 506.

SECTION 46. Whoever, himself or by his agent, peddles, sells, solicits orders for the future delivery of or delivers from any cart, wagon or other vehicle, oleomargarine, not having on both sides of said cart, wagon or other vehicle the placard in uncondensed gothic letters, not less than three inches in length, "*licensed to sell oleomargarine*" shall be punished by a fine of one hundred dollars or by imprisonment for thirty days for each offence.

Serving oleomargarine at hotels.
1891, 412, § 5.
1896, 377, § 2.
159 Mass. 113.

SECTION 47. Whoever furnishes oleomargarine or causes it to be furnished in any hotel, restaurant or boarding house or at any lunch counter, to a guest or patron thereof, instead of butter, without notifying said guest or patron that the substance so furnished is not butter shall be punished by a fine of not less than ten nor more than fifty dollars for each offence.

Sale of renovated butter.
1899, 340.

SECTION 48. Whoever, himself or by his agent, or as the servant or agent of another person, sells, exposes for sale or has in his custody or possession with intent to sell, any article or compound which is produced by taking original packing stock or other butter, or both, melting the same, so that the butter fat can be drawn off, mixing the said butter fat with skimmed milk, or milk, or cream, or other milk product, and re-churning the said mixture, or by any similar process, and is commonly known as process butter, shall have the words "*renovated butter*" conspicuously stamped, labelled or marked, in a straight line in printed letters, not less than one-half inch in length, of plain, uncondensed gothic type, so that said words cannot be easily defaced, upon the top, side and bottom of every tub, firkin, box or package containing said article or com-

pound. The seller at retail of said article or compound, which is not in the original package, shall himself or by his agent, attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words "*renovated butter*" in printed letters not less than one-half inch in length in a straight line of plain uncondensed gothic type. Whoever violates the provisions of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year.

Wrappers of adulterated lard to be marked. 1887, 449.

SECTION 49. No person shall sell, deliver, prepare, put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient except the pure fat of swine, in any tierce, bucket, pail or other vessel or wrapper, or under any label, bearing the words "*pure*", "*refined*", "*family*", or either of them, alone or in combination with other words; but every vessel, wrapper or label in or under which such article is sold, delivered, prepared, put up or exposed for sale by him shall bear on the top or outer side thereof, in letters not less than one-half inch in length and plainly exposed to view, the words "*compound lard*". Whoever violates the provisions of this section shall be punished by a fine of not more than fifty dollars for the first offence or of not more than one hundred dollars for a subsequent offence.

Disposition of fines. 1891, 412, § 12.

SECTION 50. All fines recovered under the provisions of sections forty-three, forty-four, forty-five, forty-six and forty-seven shall be payable to the commonwealth.

MILK.

Appointment of inspectors of milk. 1859, 206, §§ 1, 3. G. S. 49, § 148. 1864, 122, §§ 1, 2. P. S. 57, §§ 1, 2. 1884, 310, § 3. 1885, 352, § 4. 1886, 318, § 1.

SECTION 51. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more inspectors of milk for their respective cities and towns. Each inspector shall be sworn before entering upon the performance of his official duties and shall publish a notice of his appointment for two weeks in a newspaper published in his city or town, if any; otherwise he shall post such notice in two or more public places in such city or town. He shall receive such compensation as the mayor and aldermen or selectmen may determine.

Their duties and powers. 1859, 206, §§ 1, 2. G. S. 49, § 149. 1860, 165, § 2. 1864, 124, § 2. P. S. 57, § 2. 1884, 310, §§ 3, 4. 1885, 352, § 4. 1886, 318, §§ 1, 3. 11 Allen, 264. 132 Mass. 12. 141 Mass. 135. 143 Mass. 172, 418. 144 Mass. 132. 157 Mass. 460.

SECTION 52. Such inspectors shall keep an office and shall record, in books kept for the purpose, the names and places of business of all persons engaged in the sale of milk within their city or town. They may, with the approval of the mayor or selectmen, employ collectors of samples of milk, who shall be sworn before entering upon their duties. The inspectors or collectors may enter all places in which milk is stored or kept for sale and all carriages used for the conveyance of milk, and may take therefrom samples for analysis. They shall, upon request made at the time such sample is taken, seal and deliver to the owner or person from whose possession the milk is taken a portion of each sample, and a receipt therefor shall be given to the inspector or collector. Inspectors shall cause such samples to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the results thereof; but no evidence of the result of such analysis or test shall be received if the in-

spector or collector on request, refuses or neglects to seal and deliver a portion of the sample taken as aforesaid to the owner or person from whose possession it is taken.

Vendors of milk in carriages to be licensed.
1859, 206, § 2.
G. S. 49, § 151.
1864, 122, § 4.
1880, 209, § 1.
P. S. 57, § 3.

SECTION 53. Whoever, in cities and in towns in which an inspector of milk is appointed, conveys milk in carriages or otherwise for the purpose of selling it in such city or town shall annually, before the first day of June, be licensed by the inspector of milk of such city or town to sell milk within the limits thereof, and shall pay to such inspector fifty cents to the use of the city or town. The inspector shall pay over monthly to the city or town treasurer all money collected by him. Licenses shall be issued only in the names of the owners of carriages or other vehicles. They shall, for the purposes of this chapter, be conclusive evidence of ownership and shall not be sold, assigned or transferred. Each license shall contain the number thereof, the name, residence, place of business, number of carriages or other vehicles used by the licensee and the name of every driver or other person employed by him in carrying or selling milk. Each licensee shall, before engaging in the sale of milk, cause his name, the number of his license and his place of business to be legibly placed on each outer side of all carriages or vehicles used by him in the conveyance and sale of milk, and he shall report to the inspector any change of driver or other person who may be employed by him occurring during the term of his license. Whoever, without being first so licensed, sells milk or exposes it for sale from carriages or other vehicles, or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall for a first offence be punished by a fine of not less than thirty nor more than one hundred dollars, for a second offence by a fine of not less than fifty nor more than three hundred dollars and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than thirty nor more than sixty days.

— in stores to be registered.
1864, 122, § 4.
1880, 209, § 2.
P. S. 57, § 4.
1 Allen, 593.
2 Allen, 157.

SECTION 54. Every person, before selling milk or offering it for sale in a store, booth, stand or market-place in a city or in a town in which an inspector of milk is appointed, shall register in the books of such inspector his name and proposed place of sale, and shall pay to him fifty cents to the use of such city or town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars.

Sale of adulterated and skimmed milk.
1856, 222.
1859, 206, §§ 4, 5.
G. S. 49, § 151.
1860, 165, § 1.
1863, 140, § 2.
1864, 122, § 4.
1868, 263, § 1.
1869, 150, § 1.
1870, 311.
1872, 319, §§ 1–3.
1880, 209, §§ 3, 4.
P. S. 57, §§ 5, 6.
1885, 352, § 8.
1886, 318, § 2.
1900, 300, § 1.
9 Allen, 489.
10 Allen, 199.
11 Allen, 264.
103 Mass. 444.

SECTION 55. Whoever, himself or by his servant or agent, or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver or exposes or offers for sale or exchange, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from cows which have been fed on the refuse of distilleries, or from sick or diseased cows, or, as pure milk, milk from which the cream or a part thereof has been removed, and whoever sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver, skimmed milk containing less than nine and three-tenths per cent of milk solids exclusive of fat, shall for a first offence be punished by a fine of not

less than fifty nor more than two hundred dollars, for a second offence by a fine of not less than one hundred nor more than three hundred dollars and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than sixty nor more than ninety days.

107 Mass. 194. 130 Mass. 42. 132 Mass. 11. 139 Mass. 193. 140 Mass. 483. 141 Mass. 129. 143 Mass. 169, 172, 418.

144 Mass. 357. 146 Mass. 38, 128, 512. 149 Mass. 9. 153 Mass. 159. 155 Mass. 442. 159 Mass. 8. 160 Mass. 533. 165 Mass. 38.

Standard milk defined. 1880, 209, § 7. P. S. 57, § 9. 1885, 352, § 6. 1886, 318, § 2. 1896, 398, § 2. 1899, 223. 132 Mass. 11. 139 Mass. 193. 143 Mass. 418.

SECTION 56. In prosecutions under the provisions of sections fifty-one to sixty-four, inclusive, milk which, upon analysis, is shown to contain in April, May, June, July, August and September less than twelve per cent of milk solids, or less than nine per cent of milk solids exclusive of fat, or less than three per cent of fat, and in the other months to contain less than thirteen per cent of milk solids, or less than nine and three-tenths per cent of milk solids exclusive of fat, or less than three and seven-tenths per cent of fat, shall not be considered milk of good standard quality.

Sale of milk understandard quality. 1880, 209, § 4. P. S. 57, § 6. 1886, 318, § 2. 1900, 300, § 2.

SECTION 57. Whoever, himself or by his servant or agent or as the servant or agent of another person, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, milk which is not of good standard quality shall for a first offence be punished by a fine of not more than fifty dollars, for a second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than sixty nor more than ninety days.

Vessels containing skimmed milk to be marked. 1880, 209, § 5. P. S. 57, § 7. 1885, 352, § 7. 1896, 398, § 1. 141 Mass. 129.

SECTION 58. Whoever, himself or by his agent, sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver, milk from which the cream or a part thereof has been removed, not having the words "*skimmed milk*" distinctly marked upon a light ground in plain, dark, uncondensed gothic letters at least one inch in length in a conspicuous place upon every vessel, can or package from or in which such milk is, or is intended to be, sold, exchanged or delivered shall be punished as provided in section fifty-five. If such vessel, can or package is of the capacity of not more than two quarts, said words may be placed upon a detachable label or tag attached thereto and said letters may be less than one inch in length.

Sale of condensed milk regulated. 1896, 264.

SECTION 59. Whoever sells, or offers for sale or exchange, condensed milk or condensed skimmed milk in hermetically sealed cans without having such cans distinctly labelled with the name of the manufacturer of such milk, the brand under which it is made and the contents of the can; and whoever sells condensed milk from cans or packages not hermetically sealed without having such cans or packages branded or labelled with the name of the manufacturer, shall be punished as provided in section fifty-five.

Penalty for using counterfeit seal. 1886, 318, § 4. 1896, 398, § 3.

SECTION 60. Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector of milk, collector of samples or other officer engaged in the inspection of milk, and whoever changes or tampers with a sample taken or sealed as provided in section fifty-two, shall be punished by a fine of one hundred dollars and by imprisonment for not less than three nor more than six months.

Penalty on inspectors for connivance.
1880, 209, § 6.
P. S. 57, § 8.
1884, 310, § 5.
141 Mass. 135.

SECTION 61. An inspector of milk, or his servant or agent, who wilfully connives at or assists in a violation of the provisions of sections fifty-one to sixty-four, inclusive, or of section seventy, or whoever, except as provided in section forty-two, hinders, obstructs or interferes with an inspector of milk or his servant or agent in the performance of his duty, shall be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment for not less than thirty nor more than sixty days.

Liability of producer of milk regulated.
1894, 425.
165 Mass. 38.

SECTION 62. A producer of milk shall not be liable to prosecution for the reason that the milk produced by him is not of good standard quality unless such milk was taken upon his premises or while in his possession or under his control by an inspector of milk, by a collector of samples of milk, or by an agent of the dairy bureau or of the state board of health, and a sealed sample thereof was given to him.

Result of analysis to owner.
1899, 169.
176 Mass. 292.

SECTION 63. An officer of the state board of health or of the dairy bureau, an inspector of milk or collector of samples or other state, city or town officer who obtains a sample of milk for analysis shall, within ten days after obtaining the result of the analysis, send it to the person from whom the sample was taken or to the person responsible for the condition of such milk.

Inspectors to make complaints.
1859, 206, § 1.
G. S. 49, § 149.
1868, 263, § 3.
1869, 150, § 3.

SECTION 64. An inspector shall make a complaint for a violation of any of the provisions of sections fifty-one to sixty-nine, inclusive, upon the information of any person who lays before him satisfactory evidence by which to sustain such complaint.

P. S. 57, § 10. 141 Mass. 129.

Test of utensils for determining the value of milk.
1901, 202, §§ 1, 2.

SECTION 65. Bottles, pipettes or other measuring glasses which are used by a person, firm or corporation, or by an employee or agent thereof, at a creamery, cheese factory, condensed milk factory, milk depot or other place in this commonwealth, in determining by any test the value of milk or cream received from different persons or associations at such creameries, factories or milk depots as a basis of payment for such milk or cream, shall, before use, be tested for accuracy by the director of the Hatch experiment station of the Massachusetts Agricultural College or by a competent person who may be designated by him. Such director shall receive for such service the amount of the actual cost incurred, and no more, which shall be paid by the persons or corporations for whom it is rendered. Such bottles, pipettes or measuring glasses shall, if found to be accurate, bear in ineffaceable marks or characters the evidence that such test has been so made; if found to be inaccurate they shall be marked "*Bad*".

Annual tests.
1901, 202, § 3.

SECTION 66. Said director, or his agent, shall annually inspect, at the expense of the owners, all centrifugal or other machines used by any person, firm or corporation, or by any agent or employee thereof, for the testing of milk or cream in fixing the value thereof; and shall cause all such machines to be put into condition to obtain accurate results with the Babcock or other test, at the expense of the owners thereof. Such machines may be re-

placed by new machines at the election of the persons to whom they belong.

Certificate of competency. 1901, 202, § 4.

SECTION 67. No person shall, either himself or as an employee of any other person, firm or corporation, manipulate any test, whether mechanical or chemical, for the purpose of measuring the butter fat contained in milk or cream as a basis for determining the value of such milk or cream, or of butter or cheese made therefrom, without first obtaining a certificate from the director of the Hatch experiment station that he is competent to perform such work. Rules governing applications for such certificates and the granting of the same shall be established by said director. The fee for issuing such a certificate shall not exceed two dollars, and shall be paid by the applicant to said director, to be used in paying the expenses incurred under the provisions of sections sixty-five to sixty-nine, inclusive.

Test of farmers' samples. 1901, 202, § 5.

SECTION 68. Said director shall test farmers' samples of milk or cream by the Babcock method, and report the results of each test, the cost thereof to be paid by the farmer. The director shall also test by the Babcock method, samples of milk or cream sent from any creamery, factory or milk depot in the commonwealth by its proper representative, the actual cost of such tests to be borne by the sender. The experiment station shall publish and distribute such information relative to the provisions of this section concerning the Babcock test, and the taking and forwarding of samples, as it considers necessary.

Penalty. 1901, 202, § 6.

SECTION 69. Whoever violates any provision of the four preceding sections shall be punished by a fine of not more than twenty-five dollars for the first offence and of not more than fifty dollars for each subsequent offence.

MEAT AND PROVISIONS.

Inspection of meat, provisions, etc. 1872, 231, § 2. 1875, 29, § 2. 1876, 180, § 2. P. S. 58, § 2. 1892, 195, § 2. 1894, 491, §§ 10, 11, 13. 1899, 408, § 20.

SECTION 70. Boards of health of cities and towns may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their cities or towns, and for such purpose may enter any building, enclosure or other place in which such carcasses or articles are stored, kept or exposed for sale. If, on such inspection, it is found that such carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or, from any cause, unfit for food, the board of health shall seize the same and cause it or them to be destroyed forthwith or disposed of otherwise than for food. All money received by the board of health for property disposed of as aforesaid shall, after deducting the expenses of said seizure, be paid to the owner of such property. If the board of health seizes or condemns any such carcass or meat for the reason that it is affected with a contagious disease, it shall immediately give notice to the board of cattle commissioners of the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

Inspection of veal, etc.
1866, 253, § 1.
1872, 231, § 3.
1875, 29, § 3.
1876, 180, § 3.
P. S. 58, § 3; 208, § 2.
1894, 491, § 12.
1899, 408, § 20.

SECTION 71. The board of health may inspect all veal found, offered or exposed for sale or kept with the intent to sell in its city or town and if, in its opinion, said veal is that of a calf less than four weeks old when killed, the board shall seize and destroy or dispose of it as provided in the preceding section, subject, however, to the provisions thereof relative to the disposal of money.

Penalty for obstructing inspector, etc.
P. S. 58, § 2.
1894, 491, § 13.

SECTION 72. Whoever prevents, obstructs or interferes with the board of health in the performance of its duties as provided herein, or hinders, obstructs or interferes with any inspection or examination by it, or whoever secretes or removes any carcass, meat, fish, vegetables, fruit or provisions of any kind, for the purpose of preventing the same from being inspected or examined under the provisions of sections seventy to seventy-six, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Sale of unwholesome food.
1784, 50.
R. S. 131, § 1.
G. S. 166, § 1.
1872, 231, § 5.
1875, 29, § 5.
1876, 180, § 5.
P. S. 58, § 5; 208, § 1.
1894, 491, § 15.
1 Pick. 524.
11 Pick. 484.

SECTION 73. Whoever knowingly sells, offers or exposes for sale or has in his possession with intent to sell for food any diseased animal or any product thereof, or any tainted, diseased, corrupted, decayed or unwholesome carcass, meat, fish, vegetables, produce, fruit or provisions of any kind shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment; and whoever knowingly sells any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making their condition fully known to the buyer shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

Penalties for sale of unwholesome meat, etc.
1855, 239.
G. S. 106, § 2.
1866, 253, § 1.
1872, 231, § 5.
1875, 29, § 5.
1876, 180, § 5.

SECTION 74. Whoever kills or causes to be killed or knowingly sells, offers or exposes for sale or has in his possession with intent to sell for food the veal of a calf killed when less than four weeks old shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment. P. S. 208, § 2. 1894, 491, § 15. 97 Mass. 567.

Board of health may cause publication of certain facts.
1872, 231, § 6.
1875, 29, § 6.
1876, 180, § 6.
P. S. 58, § 6.
1894, 491, § 16.

SECTION 75. The board of health for the city or town in which any animal or property has been condemned under the provisions of sections seventy and seventy-one may cause a description of the place in which such condemned property was found, the name of every person in whose possession it was found and the name of every person convicted of an offence under the provisions of the two preceding sections to be published in two newspapers published in the county in which such property was found.

Sale of poultry regulated.
1883, 230.
1887, 94.

SECTION 76. Whoever knowingly sells or exposes for sale poultry, unless it is alive, before it has been properly dressed by the removal of the crop and entrails if they contain food, shall be punished by a fine of not less than five nor more than fifty dollars for each offence. Boards of health shall cause the provisions of this section to be enforced in their respective cities and towns.

CHAPTER 57.

OF THE INSPECTION AND SALE OF VARIOUS ARTICLES.

SECTIONS 1, 2. — Beef.
SECTIONS 3–7. — Bread.
SECTIONS 8–10. — Chocolate.
SECTIONS 11–20. — Commercial Fertilizers and Commercial Feed Stuffs.
SECTIONS 21–24. — Fruits, Nuts and Vegetables.
SECTIONS 25–31. — Grain and Meal.
SECTIONS 32–34. — Gunpowder.
SECTIONS 35–39. — Hay and Straw.
SECTIONS 40–43. — Hoops and Staves.
SECTIONS 44–46. — Ice.
SECTIONS 47–53. — Lime and Lime Casks.
SECTION 54. — Marble, Soapstone and Freestone.
SECTIONS 55–59. — Nails.
SECTION 60. — Potatoes, Onions and Salt.
SECTIONS 61–64. — Sewing-Thread.
SECTION 65. — Timothy or Herdsgrass Seed.
SECTIONS 66–69. — Vinegar.
SECTIONS 70–74. — Whale Oils.
SECTIONS 75–82. — Wood and Bark.
SECTIONS 83–93. — Coal, Coke and Charcoal.

BEEF.

Weighers of beef. 1815, 99, § 1. R. S. 28, § 36. G. S. 49, § 3. P. S. 60, § 1.

SECTION 1. In each city or town where beef cattle are sold for the purpose of market or barrelling, the mayor and aldermen or selectmen shall appoint one or more persons, conveniently situated in such city or town and not dealers in cattle, to be weighers of beef, who shall be sworn.

— fees of. 1815, 99, § 3. R. S. 28, § 38. G. S. 49, § 4. P. S. 60, § 2.

SECTION 2. Fees for weighing cattle shall be paid by the vendor and shall be twenty cents for each of the first five; fifteen cents for each of the second five; ten cents each from eleven to twenty, inclusive; five cents for each above twenty; also twelve and one-half cents for each certificate which shall contain the weight of each of the cattle weighed for one person, unless the vendor requests a division thereof.

BREAD.

Weight of loaves. C. L. 8. 1696, 9. 1720–21, 2. 1859, 174, § 3. G. S. 49, § 5.

SECTION 3. A loaf of bread for sale shall be two pounds in weight. Bread, unless composed in chief part of rye or maize, shall be sold in whole, half, three-quarter and quarter loaves, but not otherwise. P. S. 60, § 3. 152 Mass. 522.

Prices to be displayed where bread is sold. 1859, 174, § 3. G. S. 49, § 6. P. S. 60, § 4.

SECTION 4. In each shop or place where bread is sold by retail and in each front window thereof, a legibly printed price list of the different kinds and qualities of loaves sold there, with the price thereof by the loaf and by the half, three-quarter and quarter loaf, shall be conspicuously placed.

Bread to be weighed, etc.
1800, 76, § 1.
1859, 174, § 4.
G. S. 49, § 7.
P. S. 60, § 5.

SECTION 5. Bread, when sold, shall, upon request of the buyer, be weighed in his presence and, if found deficient in weight, additional bread shall be delivered to make up the legal weight.

Penalty.
1800, 76, § 2.
1859, 174, § 5.
G. S. 49, § 8.

SECTION 6. Whoever violates any of the provisions of the three preceding sections shall forfeit ten dollars for each offence, to the use of the informer. 1870, 395. P. S. 60, § 6.

Rolls and fancy bread.
1859, 174, §§ 2, 4.
G. S. 49, § 9.
P. S. 60, § 7.

SECTION 7. The provisions of the four preceding sections shall not apply to rolls or to fancy bread weighing less than one-quarter of a pound. 152 Mass. 522.

CHOCOLATE.

Chocolate, how to be stamped.
1802, 133.
1803, 54, § 1.
R. S. 28, § 60.
G. S. 49, § 24.
P. S. 60, § 8.

SECTION 8. Chocolate in cakes shall be made in pans in which shall be stamped the name of the manufacturer, the town in which he resides, the quality of the chocolate in figures, "*No.* 1", "*No.* 2", "*No.* 3", as the case may be, and the letters MASS.

— ingredients of. Boxes, how branded.
1802, 133.
1803, 54, § 2.
R. S. 28, § 61.
G. S. 49, § 25.
P. S. 60, § 9.

SECTION 9. Quality number one shall be made of cocoa of the first quality and quality number two of cocoa of the second quality, and both shall be free from adulteration; quality number three may be made of the inferior kinds and qualities of cocoa. Each box containing chocolate shall be branded on the end thereof with the word "*chocolate*", the name of the manufacturer of the chocolate, the town in which it was manufactured and the quality, as described and directed in the preceding section for the pans.

— seizure of.
1802, 133.
1803, 54, §§ 3, 4.
R. S. 28, § 62.
G. S. 49, § 26.
P. S. 60, § 10.

SECTION 10. If chocolate manufactured in this commonwealth is offered for sale or found and is not of one of the qualities described in the two preceding sections or marked as therein directed, it may be seized and libelled.

COMMERCIAL FERTILIZERS AND COMMERCIAL FEED STUFFS.

Sale of fertilizers regulated.
1869, 63, § 1.
1873, 312, § 1.
1874, 206, § 1.
1878, 258, § 1.
P. S. 60, § 13.
1888, 296, § 1.
1896, 297, § 1.

SECTION 11. Every parcel or lot of commercial fertilizer or fertilizer material which is sold or offered or exposed for sale within this commonwealth shall be accompanied by a plainly printed label containing the number of net pounds of fertilizer in the package, the name, brand or trade mark under which the fertilizer is sold, the name and address of the manufacturer or importer, the location of the factory, and a chemical analysis stating the percentage of nitrogen, of potash soluble in distilled water, and of phosphoric acid in available form soluble in distilled water and reverted, as well as the total phosphoric acid. The label which accompanies fertilizers consisting of other and cheaper materials shall contain a correct general statement of the composition and ingredients thereof.

Copy of certificate to be filed.
1874, 206, § 2.
1878, 258, § 2.
P. S. 60, § 14.
1888, 296, § 2.
1896, 297, § 2.

SECTION 12. Every importer, manufacturer or other person shall, before he sells or offers or exposes for sale any commercial fertilizer, file with the director of the Hatch experiment station of the Massachusetts agricultural college a certified copy of such label and on the request of such director shall deposit with him a sealed glass jar or bottle, containing not less than one pound of the fertilizer, accompanied by an affidavit that it is a fair average sample thereof.

Analysis fees.
1873, 312, § 4.
1874, 206, § 5.
1878, 258, § 5.
P. S. 60, § 12.
1888, 296, §§ 3, 7.
1896, 297, §§ 3, 7.

SECTION 13. The manufacturer, importer, agent or seller of any brand of commercial fertilizer or fertilizer material shall annually, on or before the first day of May, pay to the director of the experiment station for each brand an analysis fee of five dollars for each of the three following fertilizing ingredients: nitrogen, phosphorus and potassium contained or claimed to exist in said brand of fertilizer. But if the manufacturer or importer shall have paid the fee herein required for any person acting as agent or seller for such manufacturer or importer, such agent or seller shall not be required to pay such fee. Upon receipt of such fee and of the certificate required by the preceding section, the director shall issue a certificate of compliance with the foregoing provisions. The director shall immediately pay over all such fees into the treasury of the station.

Sale of pulverized leather, etc., regulated.
1888, 296, § 4.
1896, 297, § 4.

SECTION 14. No person shall sell or offer or expose for sale in this commonwealth any pulverized leather, hair or wool waste, raw, steamed, roasted or in any form as a fertilizer, or as an ingredient of any fertilizer or manure, unless an explicit printed statement of the material so used is conspicuously affixed to every package of such fertilizer or manure.

Penalty for unlawful sales.
1869, 63, § 2.
1873, 312, § 2.
1874, 206, § 3.
1878, 258, § 3.
P. S. 60, § 15.
1888, 296, § 5.
1896, 297, § 5.

SECTION 15. Whoever sells, offers or exposes for sale any commercial fertilizer without the label required by section eleven, or with a label stating that said fertilizer contains a larger percentage of any of the constituents named in said section than is contained therein, or whoever violates any provision of the preceding section shall forfeit fifty dollars for the first offence and one hundred dollars for each subsequent offence.

Limitation of preceding sections.
1888, 296, § 6.
1896, 297, § 6.

SECTION 16. The five preceding sections shall not affect persons who manufacture, import or purchase fertilizers for their own use and not for sale in this commonwealth.

Analysis of fertilizers to be made annually.
1873, 312, §§ 3, 5.
1874, 206, §§ 4, 6.
1878, 258, §§ 4, 6.
P. S. 60, §§ 11, 16.
1888, 296, § 7.
1896, 297, § 7.

SECTION 17. The director of the experiment station shall annually cause one or more analyses to be made of each fertilizer or fertilizer material, and shall from time to time publish the results thereof with such information as he deems expedient relative to the composition of the fertilizer or fertilizer material. He or his deputy may take for analysis a sample not exceeding two pounds in weight from any lot or package of fertilizer or fertilizer material in the possession of any manufacturer, importer, agent or dealer. The sample shall be taken in the presence of the parties in interest or their representatives and from a parcel or number of packages which shall not be less than ten per cent of the whole lot inspected. It shall, after being thoroughly mixed, be divided into two equal parts each of which shall be placed in glass vessels and carefully sealed and labelled with the name or brand of the fertilizer sampled, the name of the person from whose stock it was taken and the time and place of taking. The label shall be signed by the director or his deputy and by the parties in interest or their representatives present when the sample was taken and sealed. One of such duplicate samples shall be retained by the director and the other by the person from whose stock it was taken. Said director shall prosecute all violations of this and the six preceding sections.

Analysis of feed stuffs. 1897, 117, § 1.

SECTION 18. Said director or his deputy is authorized and directed to take samples not exceeding two pounds in weight from any lot or package of concentrated commercial feed stuff, which is used for feeding any kind of farm live stock, which may be in the possession of any manufacturer, importer, agent or dealer, and to cause such sample to be analyzed for the amount of crude protein and crude fat contained therein, as well as for other ingredients if deemed advisable, and to cause the results of such analyses with other information to be published from time to time in specially prepared bulletins. The names of jobbers or local dealers selling such feed stuffs shall not be published, but the same shall be identified and described by the name of the manufacturer and by the commercial name or designation by which it is known in the trade.

— samples for, how taken. 1897, 117, § 2.

SECTION 19. Such samples shall, upon request, be taken in the presence of the parties in interest or their representatives, and shall in all cases be taken from a parcel or number of packages which shall not be less than five per cent of the whole lot inspected, shall be thoroughly mixed and shall then be divided into two equal parts and put in glass vessels. Such vessels shall be carefully sealed and labelled with the name or brand of the feed stuff or material sampled, the name of the manufacturer, if known, the name of the person from whose stock the sample was taken and the time and place of taking. Such label shall be signed by the director or his deputy and by the parties in interest or their representatives, if present. One of the duplicate samples shall be retained by the director and the other by the person from whose stock the sample was taken.

Allowance for expenses of analysis. 1897, 117, § 3.

SECTION 20. The sum of twelve hundred dollars shall be annually allowed in semi-annual payments by the commonwealth to the Massachusetts agricultural college to defray the expenses of collecting and analyzing the samples, and of publishing the results thereof.

FRUIT, NUTS AND VEGETABLES.

Fruit, etc., to be sold by dry measure. 1695–6, 9, § 9. 1700–1, 10. 1858, 68, § 1. G. S. 49, § 61. P. S. 60, § 18.

SECTION 21. All fruits, vegetables and nuts, if sold by measure, shall be sold by dry measure, and whoever violates the provisions of this section shall forfeit not more than ten dollars for each offence.

Sale of certain berries. 1900, 339. 1901, 327.

SECTION 22. Baskets or other receptacles holding one quart or less which are used or intended to be used in the sale of strawberries, blackberries, cherries, currants or gooseberries shall be of the capacity of one quart, one pint or one-half pint, Massachusetts standard dry measure. Whoever sells or offers for sale a basket or other receptacle holding one quart or less to be used in the sale of any of the aforesaid fruit which does not conform to said standard, and whoever sells or offers for sale any of the aforesaid fruit in any basket or other receptacle holding one quart or less which does not conform to said standard, shall be punished by a fine of not less than five nor more than ten dollars for each offence. Said baskets or other receptacles shall not be required to be tested and sealed as provided by chapter sixty-two, but the sealer or deputy

sealer of weights and measures of any city or town or the deputy sealer of the commonwealth may, if he so desires, and shall, upon complaint, test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold; and if the same is found to contain less than the standard measure he shall seize the same and make complaint against the vendor.

Nuts, etc., measured by the strike. 1850, 261, § 1.

SECTION 23. Chestnuts, walnuts, cranberries and all other berries when sold shall, subject to the provisions of the preceding section, be measured by the strike or level measure.

1851, 238, § 1. G. S. 49, § 62. P. S. 60, § 19.

Cranberries, how measured. 1875, 62. P. S. 60, § 20. 1884, 161.

SECTION 24. The legal and standard measure of a barrel of cranberries shall be one hundred quarts and of a crate of cranberries thirty-two quarts, level measure, and every manufacturer of barrels or crates for cranberries shall plainly brand or mark thereon his name and the words "*Massachusetts standard measure*". Whoever brands or marks upon any barrel or crate for cranberries of a smaller capacity than is so prescribed, the words "*Massachusetts standard measure*", shall for each offence forfeit two dollars to the use of the person bringing the action.

GRAIN AND MEAL.

Grain and meal, how sold. 1813, 51. R. S. 28, § 160. 1840, 82, § 1. 1855, 232, § 1. G. S. 49, § 63. 1880, 158, § 2. P. S. 60, § 21.

SECTION 25. In all contracts for the sale and delivery of wheat, corn, rye, oats, barley, buckwheat, cracked corn, ground corn or corn meal, ground rye or rye meal, or feed, or any other meal except oatmeal, cider apples, beans or peas, the same shall, except as provided in chapter sixty-two, be bargained for and sold either by the bushel or by the cental. 1888, 414, § 1. 114 Mass. 433.

Measurers to be appointed. C. L. 156, § 2. 1742-3, 4, § 5. 1762-3, 19, § 2. 1855, 232, § 2; 422.

SECTION 26. The mayor and aldermen of cities and selectmen of towns shall annually appoint one or more measurers of grain; and if only one is appointed by them, they may authorize him to appoint deputy-measurers. G. S. 49, § 65. P. S. 60, § 23.

—duties of. 1762-3, 19, § 3. 1855, 232, § 2; 422. G. S. 49, § 65. P. S. 60, § 24.

SECTION 27. Each of such measurers and deputies shall, upon request of a party to a contract for the sale by the bushel of any quantity exceeding one bushel of either of the articles mentioned in section four of chapter sixty-two, ascertain the weight thereof and give a certificate of the number of bushels, as ascertained by weight according to the rule prescribed in said section.

Penalty for short weight. 1840, 82, § 2. 1855, 232, § 3. G. S. 49, § 66. P. S. 60, § 25.

SECTION 28. Whoever sells or delivers by the bushel any quantity, exceeding one bushel, of either of the articles aforesaid, if the same has not been weighed by one of the measurers of grain, shall forfeit to the purchaser two dollars for every measured bushel so delivered which does not contain the required number of pounds.

Certificate of sale by cental. 1880, 158, § 3. P. S. 60, § 26.

SECTION 29. If said articles are sold by the cental, the measurers and their deputies, upon application as before provided, shall give a certificate of the number of centals of the same; and whoever sells and delivers a quantity of the same exceeding one cental,

if it has not been weighed by said measurers, shall forfeit to the purchaser ten dollars for every lot, purporting to be a cental, which contains less than one hundred pounds.

Fees of measurers.
1762-3, 19, § 3.
1855, 232, § 4.
G. S. 49, § 67.
P. S. 60, § 27.

SECTION 30. The fees of measurers of grain shall be prescribed by the mayor and aldermen or by the selectmen of the several places in which they are appointed, and one-half shall be paid by the seller and one-half by the purchaser.

Penalty for false weights, or collusion.
1762-3, 19, § 4.
1855, 232, § 5.
G. S. 49, § 68.
P. S. 60, § 28.

SECTION 31. If a measurer or deputy measurer uses, or has in his possession with intent to use for the purposes herein provided, any false weight, scale, balance or other instrument for weighing, or colludes with the purchaser or seller with intent to defraud the other party, or makes and utters a false and fraudulent certificate under the provisions of this chapter, he may be removed from office by the mayor and aldermen or selectmen, and shall also on conviction thereof be punished by a fine of not more than five hundred dollars and by imprisonment for not more than six months.

GUNPOWDER.

Size of casks, etc., for gunpowder.
1823, 121, § 1.
R. S. 28, § 92.
G. S. 49, § 69.
P. S. 60, § 29.

SECTION 32. Gunpowder manufactured in this commonwealth shall be put into strong and tight casks containing twenty-five, fifty or one hundred pounds each, or quantities of not more than five pounds, into copper, brass or tin canisters and closely covered with copper, brass or tin covers.

Casks to be marked, etc.
1808, 52, §§ 3, 8.
1823, 121, § 2.
R. S. 28, § 93.
G. S. 49, § 70.
P. S. 60, § 30.

SECTION 33. Each cask containing gunpowder manufactured within this commonwealth, or brought into the same by land, or by water and landed, shall be marked on the head with black paint in legible characters with the word "*gunpowder*", the name of the manufacturer, the weight of the cask and the year in which the powder was manufactured; and each canister of gunpowder shall be marked with the word "*gunpowder*".

Penalty for falsely marking, etc.
1808, 52, § 6.
1823, 121, § 3.
R. S. 28, § 94.
G. S. 49, § 71.
P. S. 60, § 31.

SECTION 34. Whoever knowingly marks a cask of gunpowder with the name of any person other than the manufacturer thereof, or changes gunpowder from a cask marked with the name of one manufacturer into a cask marked with the name of another manufacturer, shall for each offence forfeit not more than twenty dollars.

HAY AND STRAW.

Weighers of hay.
1824, 102.
R. S. 15, § 38; 28, §§ 95-98.
G. S. 18, § 37; 49, §§ 72-75.
P. S. 60, §§ 32-34.

SECTION 35. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the mayor and aldermen or selectmen may from time to time appoint, for a term not exceeding one year, weighers of hay who shall have the superintendence of the hay scales belonging to such city or town, and shall weigh hay offered for sale therein and any other article offered to be weighed. Such weighers of hay may be at any time removed by such mayor and aldermen or selectmen. Cities and towns may establish ordinances and by-laws for the regulation of hay scales and of the compensation of weighers of hay. A person who, not having been so ap-

pointed, sets up hay scales in a city or town for the purpose of weighing hay or other articles shall forfeit to the use of such city or town twenty dollars a month, so long as such scales are continued.

Inspectors of pressed hay and straw. 1835, 126. 1847, 246, §§ 1, 2, 6. G. S. 49, §§ 78, 82. 1861, 67. P. S. 60, §§ 35, 39.

SECTION 36. The mayor and aldermen of a city or the selectmen of a town in which pressed or bundled hay or straw is sold may, on the petition of ten or more voters thereof, annually appoint one or more inspectors of pressed or bundled hay and straw, who shall be sworn. They may remove any inspector so appointed, fill any vacancy and fix the fees for inspecting, weighing and marking, which shall be paid by the person employing the inspector.

—duties of. 1847, 246, §§ 3, 5. G. S. 49, §§ 79, 81. 1861, 67. P. S. 60, §§ 36, 38.

SECTION 37. Each inspector shall provide himself with proper scales, weights, seals and other suitable instruments and, on request of the owner or seller, shall inspect and weigh all pressed or bundled hay and straw within the limits of the city, town or ward for which he may be appointed.

Pressed hay and straw, how numbered and marked. 1836, 240, § 1. 1847, 246, § 4. G. S. 49, § 80. 1861, 67. P. S. 60, § 37.

SECTION 38. Bales or bundles of hay or straw so inspected, which are found to be sweet, of good quality and free from damage or improper mixture shall be branded or marked "*No.* 1." Such bales or bundles of hay or straw of a secondary quality shall be branded or marked "*No.* 2." Bales or bundles of hay or straw found to be wet or damaged, or which contain substances not valuable as hay or straw, as the case may be, shall be branded or marked "*Bad*". Each bale or bundle so inspected shall be branded or marked with the name of the inspector, the city or town for which he is appointed, the month and year when the inspection is made and the net weight of the bundle.

Penalty for selling without inspection, etc. 1836, 240, § 2. 1847, 246, § 7. G. S. 49, § 83. 1861, 67. P. S. 60, § 40.

SECTION 39. Whoever, in a city or town for which an inspector is appointed, sells pressed or bundled hay or straw which has not been inspected and weighed as before provided, unless the vendor and vendee waive an inspection, shall forfeit two dollars for each bale or bundle so sold.

HOOPS AND STAVES.

Cullers of hoops and staves. 1737-8, 19, § 2. 1743-4, 22, § 7. 1762-3, 5, § 6. 1783, 15, § 4. R. S. 28, §§ 99, 100. G. S. 49, §§ 84, 87. P. S. 60, §§ 41, 44.

SECTION 40. In every maritime city or town from which staves are usually exported, the mayor and aldermen or selectmen may appoint two or more cullers of staves and hoops who shall be sworn. They shall be allowed for culling staves and hoops fifty cents a thousand for hoops, twenty-eight cents a thousand for barrel staves, thirty-three cents a thousand for hogshead staves, forty cents a thousand for pipe staves and forty-four cents a thousand for butt staves, as well refuse as merchantable; the merchantable to be paid for by the buyer, the refuse by the seller.

Quality and sizes of staves. C. L. 17. 1737-8, 19, § 1. 1743-4, 22, § 5. 1762-3, 5, § 2. 1783, 15, § 3. R. S. 28, § 101. G. S. 49, § 85. P. S. 60, § 42.

SECTION 41. White oak butt staves shall be at least five feet long, five inches wide and one inch and a quarter thick on the heart or thinnest edge and every part thereof; white oak pipe staves shall be at least four feet and eight inches long, four inches broad in the narrowest part and not less than three-quarters of an inch thick on the heart or thinnest edge; white oak and red oak hogs-

head staves shall be at least forty-two inches long and not less than half an inch thick on the heart or thinnest edge; white oak and red oak barrel staves for foreign market shall be thirty-two inches long and for home use thirty inches long, and shall average half an inch thick on the heart or thinnest edge; white oak and red oak hogshead and barrel staves shall be at least four inches broad and none less than three inches broad in the narrowest part, and those of the breadth last mentioned shall be clear of sap; and all staves shall be well and proportionately split.

Quality and sizes of hoops.
1762–3, 5, § 4.
1783, 15, § 3.
R. S. 28, § 102.
G. S. 49, § 86.
1878, 116, § 1.
P. S. 60, § 43.

SECTION 42. Hogshead hoops which are offered or exposed for sale or exported shall be from ten to fourteen feet long, of white oak or walnut, of good and sufficient substance and well shaved, and shall not be less than one inch broad at the least end; each bundle shall consist of twenty-five hoops, and all hoops of ten, twelve and fourteen feet respectively shall be in distinct bundles by themselves. If hoops of less dimensions than those prescribed by law are packed, or if a bundle contains less than twenty-five hoops, the bundle shall be forfeited, and may be seized by the culler of hoops and libelled for the benefit of the place where it is offered or exposed for sale.

Penalty for fraud in culling.
1762–3, 5, § 10.
1783, 15, § 8.
R. S. 28, § 103.
G. S. 49, § 88.
P. S. 60, § 45.

SECTION 43. If a culler connives at or is guilty of fraud in culling staves or hoops, he shall forfeit fifty dollars for each offence; and if he refuses to perform service when requested, he shall forfeit five dollars.

ICE.

Sale of ice at retail.
1900, 448.

SECTION 44. Whoever, being engaged in the business of selling ice at retail, refuses to sell, from any place or vehicle engaged in the regular distribution of ice at retail, a piece of ice at the fair value thereof to any person, other than an ice dealer, shall, if such person tenders in payment therefor the amount of five cents or any multiple thereof not more than fifty cents in legal money of the United States, be punished by a fine of not more than one hundred dollars.

Ice dealers to have scales.
1890, 276, §§ 1, 3.

SECTION 45. A dealer in ice who refuses or neglects to provide scales for each wagon used by him for the delivery of ice or, on request of the purchaser of ice, refuses or neglects to weigh the same when delivered or gives false weight shall for each offence be punished by a fine of not more than fifty dollars.

Penalty for giving false weight.
1890, 276, § 2.

SECTION 46. Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses on the request of the purchaser of ice to weigh the same when it is delivered or gives false weight, shall be punished by a fine of not more than ten dollars.

LIME AND LIME CASKS.

Inspectors of lime.
1809, 62, §§ 5, 6, 9.
R. S. 28, § 133.
G. S. 49, § 118.
P. S. 60, § 46.

SECTION 47. The mayor and aldermen of a city and the selectmen of a town in which lime is manufactured, or into which it is imported, may annually appoint one or more inspectors of lime, who shall be sworn and shall inspect all lime manufactured in such city or town at the time when it is filled at the kiln and all lime imported or sold therein.

SECTION 48. Every cask of lime so inspected shall be branded with the word "*inspected*", with the name of the inspector and with the name of the city or town in which it is manufactured.

Casks of lime, how branded.
1809, 62, § 6.
R. S. 28, § 134.
G. S. 49, § 119.
P. S. 60, § 47.

SECTION 49. The inspectors shall receive four cents for the inspection and branding of each cask of such manufactured lime, which shall be paid by the manufacturer or owner; and the same amount for the inspection of each cask of lime so imported or sold, which shall be paid by the purchaser.

Fees of inspectors.
1809, 62, §§ 4–6.
1810, 128.
R. S. 28, § 135.
G. S. 49, § 120.
P. S. 60, § 48.

SECTION 50. No stone lime manufactured within this commonwealth shall be sold or exposed to sale, or shipped on board a vessel in casks, unless it is well burnt and pure, in good and sufficient new casks, containing either fifty or one hundred gallons each, made of well-seasoned heads and staves, with ten good and sufficient hoops on each cask, well driven and sufficiently secured with nails or pins.

Quality of lime and casks.
1785, 25, § 16.
1793, 65, § 1.
1794, 22.
1796, 16.
1802, 121.
1809, 62, § 1.
R. S. 28, § 136.
G. S. 49, § 121.
P. S. 60, § 49.

SECTION 51. Whoever sells, exposes for sale, ships or receives on board a vessel in casks, any lime manufactured in this commonwealth, other than such as is contained in casks made according to the provisions of the preceding section and having the aforesaid marks or brands respectively, shall forfeit one dollar and fifty cents for each cask sold, exposed for sale, shipped or received on board a vessel; but the provisions of this chapter shall not restrain any person from retailing lime by the bushel or other quantities, when not in casks.

Penalty.
1809, 62, §§ 7, 11.
R. S. 28, § 137.
G. S. 49, § 123.
P. S. 60, § 50.

SECTION 52. Whoever, after a cask containing lime has been branded as aforesaid, shifts the contents of such cask and puts therein other lime with intent to sell the same, shall forfeit one dollar and fifty cents for each cask of lime so shifted. P. S. 60, § 51.

— for shifting contents of casks.
1793, 65.
1809, 62, § 8.
R. S. 28, § 139.
G. S. 49, § 125.

SECTION 53. A cask of lime which is sold, exposed for sale, or put on board a vessel, contrary to the provisions of this chapter, shall be forfeited, and may be seized and libelled by an inspector.

Forfeiture.
1793, 65.
1809, 62, § 7.
R. S. 28, § 138.
G. S. 49, § 124.
P. S. 60, § 52.

MARBLE, SOAPSTONE AND FREESTONE.

SECTION 54. The mayor and aldermen of a city or selectmen of a town may establish regulations, with suitable penalties, relative to the appointment of a surveyor and the survey and measurement of marble, soapstone and freestone of every description, foreign or American, imported or brought into such place for sale.

Survey of marble, etc.
1851, 100.
G. S. 49, § 145.
1862, 70.
P. S. 60, § 53.

NAILS.

SECTION 55. Wrought nails, cut nails, wire nails and brads of all sizes, manufactured in this commonwealth shall be well made and packed free from waste pieces of iron, unless they are refuse nails or brads, and free from any fraudulent mixture increasing the weight, in strong and sufficient casks of seasoned timber, well hooped, containing not more than three hundred pounds each. 1892, 63, § 1.

Nails and brads, how to be made and packed.
1799, 64, § 5.
1802, 103, § 5.
1823, 122, § 1.
R. S. 28, §§ 163, 164.
G. S. 49, § 152.
P. S. 60, § 56.

Casks, how branded.
1799, 64, § 1.
1802, 103, § 5.
1826, 122, § 1.
1837, 111, § 1.
G. S. 49, § 153.

SECTION 56. Every cask of wrought, cut or wire nails or brads shall be marked or branded on the head by the manufacturer, in plain, legible letters, with his name and the net weight of the contents of the cask. P. S. 60, § 57. 1892, 63, § 1.

Penalty for selling, etc., casks, etc., of nails not branded.
1799, 64, § 4.
1802, 103, § 6.
1826, 122, § 2.
R. S. 28, § 165.
G. S. 49, § 154.
P. S. 60, § 58.

SECTION 57. If a cask, package or quantity of wrought or cut nails, wire nails or brads, manufactured in this commonwealth or elsewhere, and not so branded or marked, is offered or exposed for sale within this commonwealth or put on board a vessel or carriage of conveyance, unless to be carried out of this commonwealth, it shall be forfeited. 1892, 63, § 2.

— for counterfeiting a brand, etc.
1799, 64, § 8.
1802, 103, § 7.
1826, 122, § 3.
R. S. 28, § 166.
G. S. 49, § 155.
P. S. 60, § 59.
1892, 63, § 3.

SECTION 58. Whoever counterfeits a brand used or intended to be used for the purpose of marking a cask of nails or brads, or destroys or alters a mark or impression made by another person's brand on a cask of wrought or cut nails, wire nails or brads, and causes a different impression by such counterfeit brand to be marked or impressed thereon, or shifts any such nails or brads from one branded cask to another and thereby avails himself of another person's brand, shall forfeit twenty dollars.

Disposition of forfeitures.
1799, 64, §§ 4, 9.
1802, 103, § 9.
1826, 122, § 5.

SECTION 59. All forfeitures recovered under the provisions of the two preceding sections shall be divided equally between the informer and the commonwealth. R. S. 28, § 168. 1892, 63, § 4.

POTATOES, ONIONS AND SALT.

Sales of potatoes, onions, and salt.
1817, 130.
R. S. 28, § 199.
1847, 14.
1856, 271.
G. S. 49, § 180.
P. S. 60, §§ 61, 62.

SECTION 60. In order to ascertain the mean or true weight of potatoes, onions or salt, the vendor shall weigh ten measures at least in every hundred bushels, five measures at least in every fifty bushels and two measures at least in every less quantity than fifty bushels sold, unless the vendor and vendee appoint a third person to measure or ascertain the weight or quantity of the same or unless they agree on such weight or quantity, or unless the amount sold does not exceed ten bushels and the vendee does not require the same to be weighed. Whoever sells potatoes, onions or salt, without so ascertaining the weight, shall forfeit two dollars for every bushel sold and in like proportion for a greater or less quantity, to the use of the person who first prosecutes therefor.

SEWING-THREAD.

Sewing-thread to be labelled.
1869, 120, § 1.
1878, 169, § 1.
1880, 119, § 1.
P. S. 60, § 63.

SECTION 61. Every manufacturer of cotton, linen or silk sewing-thread, and every person engaged in putting up such thread on spools, or in packages of four ounces weight or less not wound on spools, shall, before the same is offered for sale, affix to or impress upon each spool of such thread, and upon each package of such thread not wound on spools, a label or stamp designating the quantity of thread which each spool or package contains, either by giving the length in yards or by giving the weight.

Penalty for neglect to affix label.
1869, 120, § 2.
1878, 169, § 2.
P. S. 60, § 64.

SECTION 62. Any such person who neglects to affix such label to or to impress such stamp upon each spool and package of thread, or affixes to or impresses upon, or causes or suffers to be affixed to or impressed upon, any spool or package of thread intended for sale,

a label or stamp specifying that such spool or package contains a greater number of yards or a greater quantity of thread by five per cent than such spool or package contains, shall forfeit five dollars for each spool or package so without a label or stamp or falsely labelled or stamped, which is sold or delivered to any person to be sold, one-half of which shall be to the use of the commonwealth and one-half to the use of the person who sues therefor.

Penalty for selling thread falsely labelled. 1869, 120, § 3. 1878, 169, § 1. 1880, 119, § 1. P. S. 60, § 65.

SECTION 63. A merchant, jobber or trader who sells or offers for sale cotton, linen or silk sewing-thread, put up either on spools, or in packages of the weight of four ounces or less not wound on spools, which is not labelled or stamped, or which is falsely labelled or stamped as regards length or quantity by an amount greater than five per cent of the true length or quantity, shall be liable to the penalty provided in the preceding section.

Certain bobbins exempted. 1878, 169, § 5. P. S. 60, § 66.

SECTION 64. Ready wound bobbins of thread adapted for use in sewing machine shuttles shall be exempt from the provisions of the three preceding sections.

TIMOTHY OR HERDSGRASS SEED.

Sale of timothy regulated. 1862, 134. P. S. 60, §§ 67, 68.

SECTION 65. All contracts for the sale and delivery of timothy or herdsgrass seed shall, except as provided in chapter sixty-three, be made by the standard weight prescribed in section four of chapter sixty-two. Whoever violates the provisions of this section shall forfeit not more than twenty dollars for each offence.

VINEGAR.

Penalty for selling adulterated vinegar. 1880, 113, § 1. P. S. 60, § 69. 1883, 257, § 1. 1884, 307, §§ 1, 4.

SECTION 66. Whoever, himself or by his servant or agent or as the servant or agent of another person, sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange, or deliver or exposes or offers for sale or exchange adulterated vinegar, or whoever labels, brands or sells, as cider vinegar or as apple vinegar, any vinegar not the legitimate product of pure apple juice or not made exclusively from apple cider, shall be punished by a fine of not more than one hundred dollars.

Qualities of vinegar defined. 1884, 307, § 2. 1885, 150.

SECTION 67. Vinegar shall contain no artificial coloring matter, and shall have an acidity equal to the presence of not less than four and one-half per cent by weight of absolute acetic acid. Cider vinegar shall, in addition, contain not less than two per cent by weight of cider vinegar solids upon full evaporation over boiling water. If vinegar contains any artificial coloring matter, or less than the required amount of acidity, or if cider vinegar contains less than the required amount of acidity or of cider vinegar solids, it shall be deemed to be adulterated.

Penalty for selling deleterious vinegar. 1880, 113, § 2. P. S. 60, § 70.

SECTION 68. Every person who manufactures for sale, or offers or exposes for sale, any vinegar found upon proper tests to contain any preparation of lead, copper, sulphuric acid or other ingredient injurious to health shall for each such offence be punished by a fine of not less than one hundred dollars.

Enforcement of penalties.
1880, 113, § 2.
P. S. 60, § 71.

SECTION 69. Inspectors of milk shall cause the provisions of the three preceding sections to be enforced. 1883, 257, § 2. 1884, 307, § 3.

WHALE OILS.

Definition of spermaceti oil.
1833, 215, § 1.
R. S. 28, § 169.
G. S. 49, § 157.
P. S. 59, § 1.

SECTION 70. All descriptions of whale oils which are sold under the names of sperm, spermaceti, lamp, summer, fall, winter and second winter oils shall be deemed pure winter pressed or summer strained spermaceti oil.

—of whale oil.
1833, 215, § 2.
R. S. 28, § 170.
G. S. 49, § 158.
P. S. 59, § 2.

SECTION 71. Spermaceti oils which are sold under the names aforesaid which are adulterated with whale, tight pressed or any other oil of less value than pure spermaceti oil shall be deemed whale oil; and if the proportions of the respective oils of which the mixture consists are not disclosed to the purchaser in writing at the time of sale, the vendor shall be liable to the purchaser for double the amount of the difference in value between pure spermaceti oil and whale oil, if the quantity sold exceeds five gallons, and four times the difference if said quantity is less than five gallons; and if the quantity sold is less than five gallons, the vendor shall attach to the vessel in which it is delivered a label, upon which shall be legibly written the names and proportions of the respective oils composing such mixture.

Penalty for selling adulterated oil.
1833, 215, § 3.
R. S. 28, § 171.
G. S. 49, § 159.
P. S. 59, § 3.

SECTION 72. Whoever sells any oil or oils commonly known under the names of sperm, spermaceti, lamp, summer, fall, winter and second winter oils, which have been adulterated from pure spermaceti oil by a mixture of whale, tight pressed or other inferior oil, and does not, in the manner prescribed in the preceding section, disclose to the purchaser the proportions of the oils of which it consists shall for each offence forfeit fifty dollars, to the use of the person suing therefor.

Definition of tight pressed oil.
1833, 215, § 4.
R. S. 28, § 172.
G. S. 49, § 160.
P. S. 59, § 4.

SECTION 73. Oils sold under any of the names mentioned in the preceding section which have been mixed with tight pressed oil shall be deemed tight pressed oil, and the vendor thereof, or of tight pressed oil under any of the names aforesaid, shall be liable to the purchaser for double the amount of the difference in value between the first quality of spermaceti oil and tight pressed oil, and to the penalties provided in the preceding section, unless at the time of sale he discloses in writing the mixture aforesaid, or, if the oil is not mixed, its quality.

Test.
R. S. 28, § 173.

SECTION 74. The test of pure spermaceti oil shall be Harris's oleometer. G. S. 49, § 161. P. S. 59, § 5.

WOOD AND BARK.

Measurers of wood and bark.
C. L. 156.
1705-6, 8, § 2.
1758-9, 16, § 2.
1772-3, 8, § 2.
1779-80, 17, § 2.
1796, 67, § 2.
R. S. 15, §§ 33, 38.

SECTION 75. The city council of a city and a town shall annually choose one or more measurers of wood and bark, who shall hold office during the year and until others are chosen and qualified in their stead, and who shall be sworn. Towns may, by vote fixing the number to be chosen, delegate the appointment of such measurers to the selectmen. G. S. 18, §§ 31, 37. P. S. 60, § 72.

SECTION 76. Such measurers may, in the manner prescribed for surveyors of lumber in section seven of chapter sixty, be licensed to act in a town adjoining that for which they are elected or appointed.

Measurers may act in adjoining town.
1894, 83, § 2.

SECTION 77. Cord wood exposed for sale shall be either four, three or two feet long, including half the kerf; and the cord of wood, being well and closely laid together, shall measure a quantity equal to a cord of eight feet in length, four in width and four in height.

Cord wood, dimensions of.
C. L. 156, § 2; 160.
1705-6, 8, § 1.
1758-9, 16, § 1.
1772-3, 8, § 1.
1796, 67, § 1. G. S. 49, § 181.
1827, 19, § 1. P. S. 60, § 73.
R. S. 28, § 200. 2 Allen, 317.

SECTION 78. If firewood or bark which is exposed for sale in a market or upon a cart or other vehicle is offered for sale before it has been measured by a public measurer of wood and bark and before a ticket thereof signed by him has been delivered to the driver, certifying the quantity which the load contains, the name of the driver and the place in which he resides, the driver and owner shall for each load thereof severally forfeit five dollars.

Penalty for selling wood, etc., not measured.
1758-9, 16, § 3.
1772-3, 8, § 3.
1779-80, 17, § 1.
1796, 67, § 3.
R. S. 28, § 201.
G. S. 49, § 182.
P. S. 60, § 74.
7 Cush. 371.

SECTION 79. Measurers of wood and bark in any city or town shall be entitled to such fees for their services as the mayor and aldermen or selectmen shall establish; and the fees shall in each case be paid to the measurer by the driver and shall be repaid by the purchaser.

Fees of measurers.
C. L. 156.
1705-6, 8, § 2.
1710-11, 4.
1758-9, 16, § 2.
1772-3, 8, § 2. R. S. 28, § 202.
1779-80, 17, § 2. G. S. 49, § 183.
1796, 67, § 2. P. S. 60, § 75.

SECTION 80. Cord wood brought by water into a city or town for sale, and landed, shall be measured by a public measurer; and for that purpose the wood shall be corded and piled by itself in ranges, making up in height what shall be wanting in length, and, being so measured, a ticket shall be given to the purchaser, who shall pay the stated fees for such service. Cities and towns may establish ordinances and by-laws, with suitable penalties, for the inspection, survey, measurement and sale of wood, coal and bark for fuel brought into such places for sale, and may also provide for the appointment of inspectors, surveyors and other officers and establish their fees.

Measurement of water-borne wood.
1799, 26, § 1.
1830, 27, § 2.
R. S. 28, § 203.
G. S. 49, § 184.
P. S. 60, § 76.

SECTION 81. Each wharfinger, carter or driver who conveys firewood or bark from a wharf or landing place shall be furnished by the owner or seller with a ticket certifying the quantity which the load contains and the name of the driver; and if firewood or bark is thus conveyed without such ticket accompanying the same, or if a driver refuses to produce and show such ticket on demand to any sworn measurer, or to give his consent to have the same measured, or if such ticket certifies a greater quantity of wood or bark than the load contains in the opinion of the measurer after measuring the same, the driver and owner shall for each load thereof forfeit five dollars. The provisions of this chapter shall not extend to a person who transports, carts or causes to be transported or carted from a wharf or landing place to his own dwelling house or store cord wood or bark which he has purchased on a wharf or landing place, or which he has landed thereon upon his own account.

Tickets showing quantity in load.
1758-9, 16, §§ 4, 5.
1772-3, 8, §§ 4, 5.
1779-80, 17, § 1.
1796, 67, § 4.
1799, 26, § 2.
R. S. 28, § 204.
G. S. 49, § 185.
P. S. 60, § 77.

Inspection and sale of bark.
1830, 27.
1854, 361.
G. S. 49, § 186.
P. S. 60, § 78.
1891, 136.

SECTION 82. The city council of a city may establish ordinances, with suitable penalties, not exceeding five dollars for any one violation thereof, for the regulation of the sale of prepared wood, slabs and edgings for fuel, when sold by the load, and for the inspection, survey, measurement and sale of bark for fuel or manufacturing purposes brought into said city for sale, whether the same is exposed for sale in ranges or upon a cart or other vehicle; and said city may provide for the appointment of such surveyors, inspectors and other officers as may be necessary to carry into effect said ordinances and may establish their fees.

COAL, COKE AND CHARCOAL.

Weighers of coal.
1849, 143, § 4.
1850, 25.
1855, 188, §§ 3, 5.
G. S. 49, § 188.
1865, 191, § 1.

SECTION 83. The mayor and aldermen of a city or the selectmen of a town shall appoint, and may remove, weighers of coal, one of whom at least shall not be engaged in the business of selling coal, who shall be sworn, and by whom all coal shall be weighed.

1870, 205, § 2. P. S. 60, § 80.

Coal to be sold by weight and measure.
1849, 143, § 1.
1850, 25.
1855, 188, § 1.
G. S. 49, § 187.
1870, 205, § 1.
P. S. 60, § 79.
1884, 70.

SECTION 84. Coal, in quantities of one hundred pounds or more, shall be sold by weight, and, except when sold by the cargo, two thousand pounds avoirdupois shall be the standard for the ton. Coal, in quantities of less than one hundred pounds, shall be sold by measure, and shall be delivered to the purchaser thereof in the same baskets or measures as are used in measuring it.

1894, 429, §§ 1-3. 1901, 423, § 1.

Dimensions and sealing of baskets for measuring coal.
G. S. 49, § 191.
P. S. 60, § 85.
1883, 218, § 1.
1884, 70.
1894, 429, § 2.

SECTION 85. Baskets or measures which are used in measuring coal in quantities of less than one hundred pounds shall be of a cylindrical form and of the following dimensions in the inside thereof: one bushel, nineteen inches in diameter in every part and nine inches in depth measured from the highest part of the bottom thereof, and one-half bushel, the same diameter and four and one-half inches in depth. Such baskets or measures shall be sealed and the capacity thereof plainly marked or stamped thereon by a sealer of weights and measures of the city or town in which the person using it usually resides or does business; and shall, in selling said article, be filled level full.

Sale of coke and charcoal.
1901, 423, § 1.

SECTION 86. Coke in quantities of less than one hundred pounds, and charcoal in any quantities, shall be sold only by baskets or in bags, and when sold by baskets shall be kept, until delivered, in the same baskets in which the goods are measured. Coke sold in quantities of one hundred pounds or more shall be sold only by baskets or by weight.

Baskets and bags, capacity and sealing.
1901, 423, § 2.

SECTION 87. Baskets used in selling coke or charcoal shall be of the capacity of two bushels, of one bushel, or of one-half bushel, Massachusetts standard dry measure. They shall be sealed, and their capacity plainly marked thereon by a sealer of weights and measures of the city or town in which the person using them resides or does business, and shall be filled level full. Bags of coke or charcoal sold or offered for sale shall contain, and shall be sold as containing, one-half bushel, dry measure, standard aforesaid, of said

goods, and shall be plainly marked with the name of the person who puts up the same, and the words in capital letters, each at least one inch in height, — "ONE-HALF BUSHEL."

Weighing and certificate. 1901, 423, § 3.

SECTION 88. Whoever sells coke or coal by weight shall without cost to the purchaser cause the goods to be weighed by a sworn weigher of the city or town in which they are sold, and shall cause a certificate stating the name and place of business of the seller, the name of the person taking charge of the goods after the weighing, as given to the weigher on his request, and the quantity of the goods, to be signed by the weigher. Such certificate shall be given to said person and shall by him be given only to the owner of the goods or his agent when he unloads the same; and every such person, owner or agent shall, on request and without charge therefor, permit any sealer of weights and measures of any city or town to examine the certificate and to make a copy thereof.

Sealer may direct goods to be weighed. 1901, 423, § 4.

SECTION 89. A sealer of weights and measures of a city or town in which any quantity of coke, charcoal or coal for delivery is found may, in his discretion, direct the person in charge of the goods to convey the same without delay or charge to scales designated by such sealer, who shall there determine the quantity of the goods, and, if they are not in baskets or bags, shall determine their weight with the weight of the vehicle in which they are carried, and shall direct said person to return to such scales forthwith after unloading the goods; and upon such return, the sealer shall weigh the vehicle.

Record to be kept of weights and measures. 1901, 423, § 5.

SECTION 90. A sealer of weights and measures of a city or town and a sworn weigher shall keep in a book used by him solely for that purpose a record of all baskets sealed by him as aforesaid, and of all weighings and determinations of quantities of coke, charcoal or coal made by him as aforesaid. Such record shall be made at the time of measuring or weighing, and shall state the day and hour of the measuring or weighing, the name and place of business of the seller of the goods, the name of the owner of the baskets or of the purchaser of the goods as given to him on his request by the person taking charge of the baskets or goods after weighing or measuring, the capacity of the baskets measured or quantity of goods determined, and the name of said person, and, in the case of a re-weighing as aforesaid, shall state the weight as given in the certificate and as determined by him. No charge shall be made by any such sealer for anything done under the provisions of this and the two preceding sections.

Penalty. 1901, 423, § 6.

SECTION 91. Whoever violates any provision of the seven preceding sections or fails to comply with any request for information or direction made under authority thereof, or gives a false answer to any such request, shall for each offence be punished by a fine of not more than fifty dollars; and whoever shall be guilty of any fraud or deceit relative to the weighing, selling or delivering of coke, charcoal or coal, shall for each offence be punished by a fine of not more than one hundred dollars.

Penalty for having illegal coal, etc., measures.
1758–9, 16, § 6.
1772–3, 8, §§ 6–8.
1883, 193, § 2.
R. S. 28, § 208.
1852, 302, § 1.
1853, 305, § 3.
1859, 250, §§ 1, 2.
G. S. 49, § 193.

SECTION 92. A vendor of coal, coke or charcoal who has in his possession a basket, bag or other measure which does not conform in every particular to the requirements respecting it, with intent to use or permit it to be used in measuring coal, coke or charcoal sold or offered for sale, shall be punished by a fine of not more than twenty dollars, and such basket, bag or measure shall be destroyed.

P. S. 60, § 87. 1883, 218, § 2. 1884, 70. 1894, 429, § 4.

Seizure of illegal measures; arrest, etc.
1758–9, 16, § 7.
1772–3, 8, § 8.
1796, 67, § 6.
R. S. 28, § 206.
1852, 302, § 2.
1853, 305, § 4.
1859, 250, §§ 1, 2.
G. S. 49, § 194.
P. S. 60, § 88.

SECTION 93. The mayor and aldermen of a city or the selectmen of a town shall appoint one or more persons whose duty it shall be to seize all baskets, bags or measures used or intended to be used for measuring coal, coke or charcoal, which do not conform to the foregoing provisions, to arrest without warrant any person who has in his possession such baskets, bags or measures and to prosecute him under the provisions of the preceding section. The tribunal by which he is convicted shall order said baskets, bags and measures to be destroyed.

CHAPTER 58.

OF THE INSPECTION OF GAS AND GAS METERS.

Appointment of inspector and assistants.
1861, 168, §§ 1, 2.
1880, 230, § 1.
P. S. 61, § 1.
1889, 169.

SECTION 1. The governor, with the advice and consent of the council, shall appoint an inspector and two assistant inspectors of gas meters and of illuminating gas, for a term of three years from the date of their respective appointments. 1900, 459, § 1.

Oath and bond.
1861, 168, §§ 1, 2.
1880, 230, § 1.
P. S. 61, §§ 1, 3.
1889, 169.
1900, 459, §§ 1, 3.

SECTION 2. The inspector and assistant inspectors shall be sworn to the faithful performance of their official duties. The inspector shall give bond to the treasurer and receiver general in the penal sum of five thousand dollars for the faithful performance of the duties of his office, and each assistant inspector shall give like bond in the penal sum of two thousand dollars.

Inspector and assistant inspectors to be disinterested.
1861, 168, § 2.
1880, 230, § 1.
P. S. 61, § 4.

SECTION 3. The inspector, assistant inspectors or deputy inspectors shall not be pecuniarily interested, directly or indirectly, in the manufacture or sale of illuminating gas, gas meters or any article or commodity used by gas light companies or used for any purpose connected with the consumption of gas or with a gas company, and shall not give certificates or written opinions to a maker or vendor of any such article or commodity.

— duties of.
1861, 168, §§ 1, 7.
1864, 250.
1880, 230, §§ 1, 6.
P. S. 61, §§ 5, 9.
1889, 311, § 15.
1900, 459, § 5.

SECTION 4. The inspector shall have an office in Boston, which he shall provide with such apparatus and chemicals as he deems necessary for the proper performance of his official duties. He shall, when required as hereinafter provided, inspect, examine, ascertain and prove the accuracy of all gas meters which are to be used for measuring the quantity of illuminating gas and are to be furnished to or for the use of any person, and shall seal, stamp or mark every such meter, if found to be correct, with some suitable device, which shall be recorded in the office of the secretary of the common-

wealth, and with the inspector's name, the date of his inspection and the number of burners which the meter is calculated to supply. He shall, upon request of the board of gas and electric light commissioners, give to it such information and assistance as it may require consistent with the duties of his office, and he shall also annually in January report to the general court the number of meters inspected and sealed during the preceding year, with other information which he deems expedient. The assistant inspectors shall, under the direction of the inspector, aid him in performing the duties of his office.

Appointment of deputy inspectors. Fees. 1861, 168, § 4. 1881, 182. P. S. 61, § 6. 1899, 465, § 2.

SECTION 5. If the inspector is unable to attend to his duties in any city or town, he shall appoint for temporary service one or more deputy inspectors of meters for the county in which such city or town is situated. Such deputies shall be sworn, shall act under his direction, shall not be connected with or employed by any gas company, and from their decisions the gas company or the consumer may appeal to the inspector. For the services of such deputies in examining, comparing and testing meters, with or without stamping them, the inspector may collect a fee of twenty-five cents for each meter delivering not more than a cubic foot of gas in four revolutions, vibrations or complete repetitions of its action, and for each meter so delivering more than a cubic foot, a fee of thirty cents, with twenty cents added for every additional cubic foot so delivered. From such fees the inspector shall be allowed annually not more than twenty-five hundred dollars for the compensation of such deputies; and any excess shall be paid into the treasury of the commonwealth by said inspector quarterly on the first Monday of January, April, July and October of each year.

Salaries and expenses. 1861, 168, § 2. 1879, 172, § 1. 1880, 230, §§ 1, 2. P. S. 61, § 2. 1899, 465, § 1. 1900, 459, §§ 2, 5.

SECTION 6. The salary of the inspector shall be twenty-five hundred dollars a year, and the salary of the first assistant inspector shall be fifteen hundred dollars a year and the salary of the second assistant inspector shall be twelve hundred dollars a year. They shall also be paid all actual travelling expenses necessarily incurred by them in the performance of their official duties. The inspector shall be allowed annually not more than sixteen hundred dollars for the payment of the cost of apparatus and office rent and expenses. Said salaries and expenses shall be paid by the commonwealth, but no larger amount shall be so paid than is actually paid into the treasury in the manner provided in the following section.

— how paid. 1861, 168, § 3. 1878, 223. P. S. 61, § 7. 1900, 459, § 4.

SECTION 7. The amount of the salaries of the inspector and of the assistant inspectors and of their travelling expenses, with any expenses incurred under the provisions of sections four and five, less the amount deposited with the treasurer and receiver general from the fees for the inspection of meters, shall be annually assessed by the tax commissioners upon, and paid into the treasury of the commonwealth by, the several gas companies in the commonwealth, in proportion to their appraised valuation as declared in the returns required to be made by them to the assessors annually in May; and if any such company refuses or neglects, for thirty

days after written notice given by the treasurer and receiver general, to pay into the treasury the amount required of such company on account of such salaries and expenses, the said treasurer shall, in the name of and for the use of the commonwealth, sue such company for such amount, with interest thereon at the rate of ten per cent per annum from the time when said notice was given, and for the costs of the action. If at any time, however, the amount of fees collected under the provisions of section five shall exceed the amount of the salaries and the travelling expenses and other expenses of the inspector and the assistant inspectors, such excess shall be applied to reduce the annual assessment levied upon the several gas companies for the annual expenses of the board of gas and electric light commissioners under the provisions of chapter one hundred and twenty-one.

Unit of measure for gas. 1861, 168, § 5. P. S. 61, § 8.

SECTION 8. The unit of measure for the sale of illuminating gas by meter shall be the cubic foot, containing sixty-two and three hundred and twenty-one one-thousandths pounds avoirdupois weight of distilled or rain water, weighed in air of the temperature of sixty-two degrees, Fahrenheit scale, the barometer being at thirty inches.

Test gas holders and meters to be provided. 1861, 161, § 8. P. S. 61, § 10.

SECTION 9. Every gas light company with a capital paid in of one hundred thousand dollars or more and every maker and vendor of meters shall set up at some convenient place upon their premises a gas holder containing five or more cubic feet, which shall be tested and, if correct, stamped and sealed, and by means of which meters shall be tested at the average pressure at which gas is supplied in the city or town in which they are to be used, attention being paid to the temperature of the room where the trial is made. Every gas light company shall provide a test meter, of a construction approved by the inspector and stamped by him, which shall be used in cities and towns in which no test gas holders are provided or if proving by a gas holder is impracticable or inconvenient. In the examination of a meter, the inspector shall see that it is of an approved principle, shall give particular attention to the measure of the dial plate and shall prove the meter when set level, and that it is capable of accurately passing gas at the rate of six cubic feet an hour for each burner which the manufacturer has stamped it to register. A dry meter shall not be stamped correct if it varies more than two per cent from the standard measure, and a wet meter shall not be stamped correct if it is capable of registering more than two per cent against the consumer or more than five per cent against the company. The inspector shall keep at his office a correct record of all meters inspected by him, with their proof at the time of inspection, which shall be open at all times for examination by the officers of any gas light company in the commonwealth.

Meters to be stamped. 1861, 168, § 6. 1880, 230, § 3. P. S. 61, § 11.

SECTION 10. A gas company providing a meter for measuring gas supplied to a consumer which has not been duly sealed and stamped shall be punished by a fine of five dollars for every such meter in use, payable to the city or town in which the meter is situated.

SECTION 11. Meters in use shall be tested by the inspector or by one of his assistants or a deputy on the request of the consumer or of the gas light company, in the presence of the consumer if desired, and with sealed apparatus. If he finds that the meter is correct, the person requesting the inspection shall pay the fees for such inspection and the expense of removing the meter for the purpose of being tested, and the re-inspection shall be stamped on the meter. If he finds that the meter is incorrect, the gas light company shall pay such expenses and shall furnish a new meter without charge to the consumer.

Testing of meters in use.
1861, 168, § 9.
P. S. 61, § 12.

SECTION 12. Meters for measuring gas supplied to consumers shall register the quantity of gas passing through them in cubic feet so that the number of cubic feet of gas consumed can be easily ascertained by the consumer thereof. No meter shall be used which may confuse or deceive the consumer in ascertaining the price he pays per thousand cubic feet or the number of cubic feet consumed. No charge for the use of a meter during any portion of twelve consecutive months shall be made if the consumer during said time uses gas to the value of seven dollars.

Meters to register plainly.
1886, 346, § 6.

SECTION 13. Every gas light company which annually manufactures more than fifteen million cubic feet of gas, made and sold for illuminating purposes, shall provide a suitable room, at least a quarter of a mile from the gas works, containing a disc photometer of a construction approved by the inspector, which shall be open to the inspector and his assistants on every working day from eight o'clock in the morning until six o'clock in the afternoon.

Gas companies to furnish photometer.
1880, 230, § 4.
P. S. 61, § 13.
1885, 240, § 1.

SECTION 14. The gas of every company which supplies more than fifty consumers, except gas made and used exclusively for heating, cooking, chemical and mechanical purposes, shall be inspected at least twice a year, and once additionally for every six million cubic feet of gas supplied by each company; but not oftener than once a week. All such inspections shall be made by the inspector or one of his assistants, and one-fourth at least of all such inspections shall be made by the inspector. The gas shall be tested for illuminating power by means of a disc photometer and, during such test, shall be burned from the burner best adapted to it, which is at the same time suitable for domestic use, and at as near the rate of five feet an hour as is practicable. If the gas of any company is found on three consecutive inspections to give less light than sixteen standard English candles, or to contain more than twenty grains of sulphur or ten grains of ammonia per hundred cubic feet of gas, or any sulphuretted hydrogen, a fine of one hundred dollars shall be paid by such company to each city or town supplied by it. If during the test the consumption of gas varies from five feet an hour, or the candle from one hundred and twenty grains an hour, a proportionate correction shall be made for the candle power.

Inspection of gas by photometer.
1861, 168, § 10.
1880, 230, § 5.
P. S. 61, § 14.
1885, 240, § 1.
1886, 250.
1890, 252.
1892, 67.
[1 Op. A. G. 550.]

SECTION 15. An officer or servant of a gas light company, who is duly authorized in writing by the president, treasurer, agent or secretary of said company, may at any reasonable time enter any

Entry on premises to examine meters, etc.

1861, 168, § 11. P. S. 61, § 15.

premises which are supplied with gas by such company for the purpose of examining or removing the meters, pipes, fittings, and works for supplying or regulating the supply of gas and of ascertaining the quantity of gas consumed or supplied; and if any person, directly or indirectly, prevents or hinders such officer or servant from so entering such premises or from making such examination or removal, such officer or servant may make complaint to any court or magistrate authorized to issue criminal process who may thereupon issue a warrant directed to the sheriff or to either of his deputies, or to a constable of the city or town in which such company is located, commanding him to take sufficient aid and repair to said premises accompanied by such officer or servant, who shall examine such meters, pipes, fittings and works for supplying or regulating the supply of gas, and ascertain the quantity of gas consumed or supplied therein, and shall, if required, remove any meters, pipes, fittings and works belonging to said company.

Company may shut off gas for arrears. 1861, 168, § 12. P. S. 61, § 16. 1894, 316.

SECTION 16. A gas or electric light company may stop gas or electricity from entering the premises of any person who neglects or refuses to pay the amount due therefor or for the use of the meter or other article hired by him from such company; and, for such purpose, the officers, servants or workmen thereof may, after twenty-four hours' notice, enter his premises between the hours of eight in the forenoon and four in the afternoon and separate and take away such meter or other property of the company, and may disconnect any meter, pipe, wires, fittings or other works, whether they are property of the company or not, from the mains, pipes or wires of the company.

Refusal of supply restricted. 1894, 299.

SECTION 17. A gas or electric light company shall not refuse to supply gas or electricity for any building or premises to a person applying therefor who is not in arrears to it for any gas or electricity previously supplied to him because a bill for gas or electricity remains unpaid by a previous occupant of such building or premises.

Penalty for injuring gas meter, etc. 1861, 168, §§ 13, 14. P. S. 61, §§ 17, 18. 4 Allen, 308.

SECTION 18. Whoever wilfully or fraudulently injures or suffers to be injured any meter, pipes or fittings which belong to a gas light company, or prevents a meter from duly registering the quantity of gas supplied through the same, or in any way hinders or interferes with its proper action or just registration, or fraudulently burns or wastes the gas of such company, or whoever attaches a pipe to a main or pipe belonging to a gas light company or, without the written consent of such company, uses or causes to be used any gas supplied by it, unless the same passes through a meter set by the company, shall for every such offence forfeit to the company not more than one hundred dollars and the damage sustained thereby.

Application of chapter. 1861, 168, § 15. P. S. 61, § 19. 1886, 346, § 7.

SECTION 19. The provisions of this chapter shall apply to all companies which manufacture or distribute gas for sale, and the term "gas company" shall include all persons who own or operate works for the manufacture and sale of gas for heating or illuminating purposes.

CHAPTER 59.

OF THE MEASURING OF UPPER LEATHER.

Measurers of upper leather. 1841, 119, § 1. G. S. 49, § 112. P. S. 62, § 1.

SECTION 1. The mayor and aldermen of a city or selectmen of a town, upon request of two or more voters thereof, shall annually in April appoint one or more measurers of upper leather, who shall be sworn.

—may act in adjoining city, town or county, upon application. 1866, 236, § 2. P. S. 62, § 2.

SECTION 2. A measurer of upper leather for one city or town in a county may, upon application, measure and seal leather in another city or town in the same county if there is no measurer in such other city or town; and he shall, upon like application, measure and seal leather in an adjoining county, if no measurer is appointed in such adjoining county.

—general duties of. 1841, 119, §§ 2, 3. G. S. 49, § 113. P. S. 62, § 3.

SECTION 3. Each measurer shall provide himself with proper racks or measures and suitable seals; he shall, upon request, go to any place within the city or town for which he is appointed and there ascertain the number of square feet in each side of upper leather which shall not have been previously measured and sealed by a measurer of a city or town in this commonwealth or by some person lawfully appointed for that purpose in another of the United States; and he shall seal the same by impressing thereon his full name, the name of the place for which he is a measurer and the measure of such leather in square feet, giving fractions as small as a quarter of a foot.

Penalty for selling upper leather not measured and sealed. 1866, 236, §§ 3, 4. P. S. 62, §§ 4, 5.

SECTION 4. Such upper leather shall not be sold, unless it has been previously measured and sealed by such measurer or by a measurer lawfully appointed for the purpose in some other of the United States or unless such measurement has been waived by the manufacturer and buyer thereof; and whoever sells such upper leather, which has not been measured and sealed as aforesaid, shall forfeit one dollar for each side of leather so sold, and such forfeiture may be recovered by an action at law in favor of any person injured by such sale.

Fees of measurers. 1841, 119, § 5. G. S. 49, § 114. P. S. 62, § 6.

SECTION 5. A person who requests a measurer to measure and seal upper leather shall pay him one cent for measuring and sealing each side thereof.

Penalty for counterfeiting marks, etc. 1841, 119, § 4.

SECTION 6. Whoever counterfeits, wilfully alters or defaces the measurer's marks on a side of upper leather shall forfeit twenty-five dollars for each offence. G. S. 49, § 115. P. S. 62, § 7.

CHAPTER 60.

OF THE SURVEY AND SALE OF LUMBER, ORNAMENTAL WOOD AND SHIP TIMBER.

Appointment of surveyor general of lumber.
1859, 224, §§ 1, 2.
G. S. 49, § 126.
1865, 115, § 2.
1878, 65, § 7.
1880, 39.
P. S. 63, § 1.
1890, 159, § 1.

SECTION 1. The governor, with the advice and consent of the council, shall appoint, for a term of three years, a surveyor general of lumber for a district consisting of the county of Suffolk, the cities of Cambridge, Medford, Somerville and Quincy and the towns of Brookline and Watertown. The surveyor general shall be sworn to the faithful performance of his official duties, shall give bond with sufficient sureties to the treasurer and receiver general in the sum of two thousand dollars, shall reside in said district and shall keep a conveniently located office in Boston.

— of deputies, etc.
1783, 15, § 1.
R. S. 28, § 142.
1859, 224, §§ 2, 3.
G. S. 49, § 127.
1878, 65, § 1.
P. S. 63, § 2.
1890, 159, § 2.

SECTION 2. The surveyor general shall appoint a sufficient number of deputy surveyors, for whose official conduct he shall be responsible and who shall be removable at his pleasure. They shall be sworn, shall give bond to the surveyor general for the faithful performance of their duties and shall be citizens within the counties of Suffolk, Norfolk or Middlesex. He shall appoint one or more of them to survey oak and other wood commonly used in ship building and one or more to survey mahogany, cedar and other ornamental wood and lumber. Neither the surveyor general nor any deputy shall survey any lumber in which he has a pecuniary interest, directly or indirectly, nor for any person by whom he is employed. Deputy surveyors shall in accordance with the provisions of this chapter and under the instructions of the surveyor general, determine the quality and quantity of all lumber surveyed by them, ascertain the true contents of each piece of lumber, log or stick and mark the same legibly thereon, keep a true piece tally of the same in a plain and legible account and make return thereof to the surveyor general upon a form prescribed by him. Each deputy surveyor shall keep on file for reference and examination all tallies made by him, for one year from its date.

Surveyor general to direct surveys.
1859, 224, § 3.
G. S. 49, § 128.
1878, 65, § 2.
P. S. 63, § 3.
1890, 159, § 3.
[1 Op. A. G. 177.]

SECTION 3. All applications for surveys shall be made to the surveyor general, and all surveys made by his deputies and the order of their services, in rotation or otherwise, shall be under his direction. He or his deputies shall survey and measure all lumber brought into the said district for sale, upon request of either the purchaser or the seller, and he shall enforce the provisions of this chapter.

— to keep record of surveys, fees, etc.
1859, 224, §§ 3, 5.
G. S. 49, § 129.
P. S. 63, § 4.
1890, 159, § 4.

SECTION 4. He shall keep a record of all lumber surveyed by himself or his deputies and of the amount of fees received by each deputy, and as often as once in each month he shall be entitled to ten per cent of such fees. Such record shall be at all times open to inspection by the members of the city councils of cities and by the selectmen of towns within said district. Grades of lumber which are recognized in trade and not defined in this chapter may, upon application therefor in writing to the surveyor general, be

established and defined by him, and the fees for the survey thereof shall be the same as those for surveying lumber of grades similar thereto.

SECTION 5. He shall annually, on or before the fifteenth day of January, make a return to the secretary of the commonwealth of the various kinds and quantities of lumber surveyed in said district during the preceding year, the person by whom it was surveyed and the amount of fees received by him and his deputies.

Surveyor general to make annual return to secretary.
1859, 224, § 6.
G. S. 49, § 130.
P. S. 63, § 5.
1890, 159, § 5.

SECTION 6. Except in the aforesaid district, towns shall annually elect one or more surveyors of lumber, who shall be sworn to the faithful performance of their duties, and cities may establish ordinances relative to the annual election of such surveyors.

G. S. 18, § 31; 49, § 131. P. S. 63, § 6. 119 Mass. 285.

Surveyors of lumber in towns.
1710–11, 7, § 1.
1743–4, 22, § 1.
1783, 15, § 1.
R. S. 28, § 141.
1858, 164, § 1.

SECTION 7. The surveyor of lumber in any town, except the surveyor general or his deputies, may apply to the selectmen of an adjoining town for a license to survey lumber therein, and if the selectmen are of the opinion that it will be for the public convenience they may, upon payment of a fee of not more than one dollar, grant such license, and may limit the territory of their town within which it may be exercised. Such license shall remain in force while the licensee holds the office of surveyor in the town for which he was chosen, but not later than the next annual town meeting of said town.

— may be licensed to act in adjoining towns.
1894, 83, §§ 1, 3.

SECTION 8. Surveyors of lumber upon request of either the purchaser or seller, shall survey all lumber brought for sale into or manufactured in this commonwealth, except lumber in which the surveyor has a pecuniary interest. G. S. 49, § 132. P. S. 63, § 7.

Duties of surveyors.
1710–11, 7, § 2.
1743–4, 22, § 2.
1783, 15, § 1.
R. S. 28, § 142.
1858, 164, § 2.

SECTION 9. There shall be six sorts of pine boards including planks, except southern pine. The first sort shall include boards not less than one inch thick, square edged, free from rot and shakes and nearly free from knots and sap, and boards not less than fifteen inches wide if not more than one-eighth waste. The second sort shall include boards not less than one inch thick, of which at least seven-eighths are suitable for planing and first-class finish, but including clear boards deficient in thickness. The third sort shall include boards at least seven-eighths of an inch thick, of which at least three-fourths are suitable for planing and second-class finish. The fourth sort shall include boards at least seven-eighths of an inch thick, nearly free from rot and nearly square edged, free from loose and large branch knots, and suitable for covering buildings; all Norway pine boards shall be included in the fourth, fifth and sixth sorts. The fifth sort shall include all boards of every description which are not within the other four sorts, except those of which one-third is worthless, which shall be designated refuse.

Boards and planks, their sorts and numbers.
1750–1, 10, § 4.
1783, 15, § 2.
R. S. 28, § 143.
1858, 164, § 3.
G. S. 49, § 133.
P. S. 63, § 8.

SECTION 10. There shall be three sorts of the following: pine joists and dimension timber; spruce, hemlock, juniper and southern pine boards, planks, sawed timber and joists; and of hewn timber, except mahogany and cedar. The first sort shall include all that

Joists and dimension timber, etc.
R. S. 28, §§ 144, 145, 147.
1858, 164, §§ 4, 5, 7.

G. S. 49, §§ 134, 135, 137. P. S. 63, §§ 9, 10, 12.

are sound and nearly square edged. The second sort shall include all other descriptions, except those of which one-third is worthless, which shall be designated refuse.

Ash, maple, etc. R. S. 28, § 146. 1858, 164, § 6. G. S. 49, § 136. P. S. 63, § 11.

SECTION 11. There shall be three sorts of ash, maple and other hard wood and ornamental boards, planks and joists. The first sort shall include all boards, planks and joists that are free from rot, shakes and bad knots. The second sort shall include all other descriptions, except those of which one-third is worthless, which shall be designated refuse.

Oak, juniper and spruce knees. 1858, 164, § 8. G. S. 49, § 138. P. S. 63, § 13.

SECTION 12. There shall be two sorts of oak, juniper and spruce knees. The first sort shall include all sound knees of the following dimensions in inches: arm or root one foot six inches long, body of knee three feet long, working thickness four inches; arm or root two feet and six inches long, body of knee three feet long, working thickness five inches; arm or root two feet and nine inches long, body of knee three feet and six inches long, working thickness six inches; arm or root three feet and three inches long, body of knee four feet and six inches long, working thickness seven inches; arm or root three feet and six inches long, body of knee four feet and three inches long, working thickness eight inches; arm or root three feet and nine inches long, body of knee four feet and six inches long, working thickness nine inches; arm or root four feet long, body of knee five feet long, working thickness ten inches and upwards. The second sort shall include all other descriptions of less dimensions than those specified and shall be designated "refuse." All knees shall have the working thickness marked thereon, and on the first sort the number "*one*" shall be marked.

Mahogany and cedar. R. S. 28, § 148. 1858, 164, § 9. G. S. 49, § 139. P. S. 63, § 14.

SECTION 13. There shall be one sort of mahogany and cedar. Surveyors who are appointed to survey mahogany and cedar shall number in regular numerical order all the mahogany and cedar logs or sticks contained in each lot or cargo, mark the number of each log or stick upon the same in legible characters; ascertain the whole number of feet, board measure, in each log or stick, and what quantity thereof is merchantable and what is refuse; and issue certificates stating the number of each log or stick, the whole number of feet contained in the same, and the number of feet which are merchantable or refuse, respectively.

Contents to be marked on certain timber and boards, etc. 1743-4, 22, § 2. R. S. 28, §§ 149-151. 1858, 164, § 10. G. S. 49, § 140. P. S. 63, § 15.

SECTION 14. Hewn timber and round timber used for masts and ship building shall be surveyed and sold as ton timber at the rate of forty cubic feet to the ton; oak and other timber and planks commonly used in ship building shall have their true contents marked thereon in cubic feet or board measure, and on the first and second sorts the numbers "*one*" and "*two*" shall be marked respectively. In the survey of white and Norway pine boards, planks, joists, sawed timber and dimensions, the contents of the same shall be truly marked thereon in legible numbers, and on white and Norway pine boards, planks and dimensions the number of the sort except refuse shall be marked respectively. All boards, planks, joists, sawed timber and dimension lumber shall be received and sold according to the contents thereof as fixed and marked under

the aforesaid regulations. In the measurement of round timber one-fourth of the girth shall be taken for the side of the square.

Fees of surveyors. 1710–11, 7, § 2. 1743–4, 22, § 2. 1783, 15, § 1. R. S. 28, § 152. 1858, 164, § 11. 1859, 224, § 4. G. S. 49, § 141. 1865, 115, § 1. 1878, 65, § 3. P. S. 63, § 16. 1890, 159, § 6.

SECTION 15. The fees for surveying and marking shall be paid by the purchaser, as follows: for white, southern and Norway pine, spruce, hemlock, juniper and whitewood boards, planks, joists, sawed timber and dimensions, thirty cents for every thousand feet, board measure; for southern pine flooring boards, thirty-four cents for every thousand feet, board measure; for all kinds of pine, spruce, hemlock and juniper timber, twelve cents for every ton; for oak and other hard wood, twenty-four cents for every ton; for knees commonly used in ship building, three cents apiece; for ash, maple and other hard wood and for ornamental boards, planks and joists, forty cents for every thousand feet, board measure; for Cuba, Saint Domingo and other branch or hard mahogany, one dollar for every thousand feet, board measure; and for mahogany from the bay of Honduras and for cedar, seventy-five cents for every thousand feet, board measure. One-half of the fees paid by the purchaser as aforesaid shall be allowed and paid to him by the seller. If the surveyor general receives in fees in any year more than twenty-five hundred dollars and his necessary expenses for office rent, the heating and lighting thereof, clerical assistance, telephone service, postage, stationery and transportation in the performance of his duties, he shall pay the excess over said amount and expenses into the treasury of the commonwealth.

Penalty for fraud in surveying. 1783, 15, § 8. R. S. 28, § 153. 1858, 164, § 12. 1859, 224, § 4. G. S. 49, § 142. 1878, 65, § 4. P. S. 63, § 17.

SECTION 16. A surveyor general, deputy surveyor or surveyor of lumber who is guilty of or connives at a fraud or deceit in surveying, marking or numbering the contents or quality of any kind of wood or lumber, or such surveyor general or surveyor who, when lawfully requested, refuses without good reason to survey lumber, shall forfeit not less than fifty nor more than two hundred dollars for each offence.

— for attempting to induce false survey. 1878, 65, § 5. P. S. 63, § 18.

SECTION 17. A seller or purchaser of lumber who induces or attempts to induce a surveyor general, deputy surveyor or surveyor to make a false survey shall forfeit not less than fifty nor more than two hundred dollars for each offence.

— for acting unlawfully. 1858, 164, § 14. G. S. 49, § 144. P. S. 63, § 19. 1890, 159, § 7. [1 Op. A. G. 78.]

SECTION 18. Whoever without authority performs any of the duties of a surveyor general, deputy surveyor or surveyor of lumber shall forfeit not less than fifty nor more than two hundred dollars.

CHAPTER 61.

OF THE SURVEYING OF LAND.

Posts indicating meridian lines, access to. 1870, 286, § 1. P. S. 64, § 1.

SECTION 1. The posts or pillars erected pursuant to chapter two hundred and eighty-six of the acts of the year eighteen hundred and seventy to indicate the true meridian lines shall remain the property of the respective counties in which they are situated, under

the care of the county commissioners, and shall be free to the access of any surveyor or civil engineer residing in the same county or engaged in surveying therein, for the purpose of testing the variation of the compass for the time being.

Surveyors to adjust compasses annually. 1870, 286, §§ 3, 4. P. S. 64, §§ 2, 3.

SECTION 2. Every land surveyor shall, at least once in every year, adjust and verify his compass by the meridian line so established in the county in which his surveys are to be made, insert in his field notes both the true and the magnetic bearings of the lines of his surveys and the days on which such lines were run and shall enter in a book to be procured by the commissioners of each county and kept by the clerks of the courts, or by a person appointed by the commissioners for such purpose, and which shall be open to public inspection, the variation of his compass from the true meridian, whether east or west, and shall sign and make oath to such entry.

Penalty on surveyor for neglect, etc. 1870, 286, § 5. 1875, 13. P. S. 64, § 4.

SECTION 3. A surveyor who violates the provisions of the preceding section shall, if he has used his compass to measure an angle or angles in surveying within the year preceding, for every such violation be punished by a fine of ten dollars, to be equally divided between the complainant and the county.

Penalty for injuring posts or fixtures. 1870, 286, § 7. P. S. 64, § 5.

SECTION 4. Whoever wilfully displaces, alters, defaces, destroys or otherwise injures any of the aforesaid posts or the fixtures thereof shall be punished by a fine of not more than two hundred dollars, to be equally divided between the complainant and the county.

Annual test of surveyor's apparatus. 1871, 330, § 1. P. S. 64, § 6.

SECTION 5. All apparatus for linear measurements used by a land surveyor shall be annually tested and proved by the sealer of weights and measures in the city or town in which such surveyor resides or has his office, and all chains, tapes or other apparatus used for linear measurements which cannot be made to conform to the standard shall be marked "*condemned*", or "CD.", by the sealer of weights and measures, and shall not thereafter be used by any surveyor for measuring land, under a penalty of twenty dollars for each offence.

Appointment of persons to test. 1871, 330, § 2. P. S. 64, § 7.

SECTION 6. The mayor and aldermen of a city or the selectmen of a town may appoint a suitable person, other than the sealer of weights and measures, to test and prove such measuring apparatus.

Tests to be based upon state standards. 1871, 330, § 3.

SECTION 7. The standards used for such tests shall be based upon and shall correspond to the standards furnished by the commonwealth to sealers of weights and measures. P. S. 64, § 8.

Fees. 1871, 330, § 4. P. S. 64, § 9.

SECTION 8. The fees for such testing and proof of each article of apparatus shall be twenty-five cents, and shall be paid by the person presenting the apparatus for test.

CHAPTER 62.

OF WEIGHTS AND MEASURES.

SECTIONS 1–5. — Uniform Interstate Standard of Weights and Measures.
SECTIONS 6–43. — Weights, Measures and Balances.

UNIFORM INTERSTATE STANDARD OF WEIGHTS AND MEASURES.

Relation of avoirdupois to troy pound. 1894, 198, § 1.

SECTION 1. The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundredweight shall contain one hundred avoirdupois pounds, and the ton twenty hundredweight.

Capacity of barrel, etc. 1894, 198, § 2.

SECTION 2. The barrel shall contain thirty-one and one-half gallons, and the hogshead two barrels.

Weight of barrel of flour, etc. 1894, 198, § 5.

SECTION 3. The barrel of flour, measured by weight, shall contain one hundred and ninety-six pounds, and the barrel of potatoes one hundred and seventy-two pounds.

Weight of bushel. 1762–3, 19, § 1. 1817, 130, § 2. R. S. 28, § 199. 1855, 232, § 1. G. S. 49, § 64. P. S. 60, § 22. 1888, 414, § 2. 1894, 198, § 6. 1895, 28. 1901, 100.

SECTION 4. The bushel of wheat shall contain sixty pounds; of Indian corn or of rye, fifty-six pounds; of barley, forty-eight pounds; of oats, thirty-two pounds; of corn meal, fifty pounds; of rye meal, fifty pounds; of peas, sixty pounds; of soy beans (glycine hispida), fifty-eight pounds; of potatoes, sixty pounds; of apples, forty-eight pounds; of carrots, fifty pounds; of onions, fifty-two pounds; of clover seed, sixty pounds; of herdsgrass or timothy seed, forty-five pounds; of Japanese barnyard millet (panicum crus-galli), thirty-five pounds; of bran and shorts, twenty pounds; of flaxseed, fifty-five pounds; of coarse salt, seventy pounds; of fine salt, fifty pounds; of lime, seventy pounds; of sweet potatoes, fifty-four pounds; of beans, sixty pounds; of dried apples, twenty-five pounds; of dried peaches, thirty-three pounds; of rough rice, forty-five pounds; of upland cotton seed, thirty pounds; of sea island cotton seed, forty-four pounds; and of buckwheat, forty-eight pounds.

— of meal. Cental. 1840, 82, § 1. 1855, 232, § 1. G. S. 49, § 4.

SECTION 5. In this commonwealth, a bushel of cracked corn or feed or any meal except oatmeal shall be fifty pounds, and a cental shall be one hundred pounds. 1880, 158, § 1. P. S. 60, § 22. 1888, 414, § 2.

WEIGHTS, MEASURES AND BALANCES.

Standard weights, measures, etc. C. L. 155, 279, 291. 1692–3, 30, § 1. 1705–6, 6, § 3. 1730–31, 18. 1799, 60, § 1. 1800, 54. 1803, 141. R. S. 30, §§ 1, 2, 4. 1847, 242, §§ 1, 2. Res. 1847, 55. G. S. 51, §§ 1, 3.

SECTION 6. The following weights, measures and balances now in the treasury: a set of dry measures consisting of one-half bushel, eight, four, two and one quarts; a set of liquid measures consisting of one gallon, two and one quarts, one pint, two and one gills, a set of apothecaries' liquid measures consisting of one gallon, four, two and one pints, twelve, eight, six, four, three, two and one ounces, four, two and one drams, ten and five minims; a set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, three, two and one pounds; eight, six, four, three,

P. S. 65, §§ 1, 3. 1897, 443, §§ 1, 2; 517. 1901, 103.

two and one ounces, eight, six, four, three, two and one drams; a set of troy weights consisting of five thousand, three thousand, two thousand, one thousand, five hundred, three hundred, two hundred, one hundred, fifty, thirty, twenty, ten, five, three, two and one pennyweights, ten, six, five, four, three, two and one grains, one-half a grain, twelve, ten, six, five, four, three, two and one ounces, five tenths, four tenths, three tenths, two tenths, one tenth, five one-hundredths, four one-hundredths, three one-hundredths, two one-hundredths, one one-hundredth, five one-thousandths, four one-thousandths, three one-thousandths, two one-thousandths, one one-thousandth, five ten-thousandths, four ten-thousandths, three ten-thousandths, two ten-thousandths and one ten-thousandth of an ounce; a set of apothecaries' weights consisting of twelve, six, two and one ounces, four, two and one drams, two and one scruples, ten, five, four, three, two and one grains, one-half, one-quarter and one-tenth grains; a yard measure and three sets of balances, shall be the sole authorized standards of weights and measures, except as provided in chapter sixty-three.

They shall be kept in the treasury by the treasurer, and at least once in every five years he shall cause them to be compared with those of the United States government and, if necessary, corrected so that they shall agree therewith.

Weights, etc., to be replaced, when. 1799, 60, § 1. R. S. 30, § 3. G. S. 51, § 2. P. S. 65, § 2.

SECTION 7. Such weights, measures and balances as may be procured from time to time to replace the standard weights, measures and balances shall be preserved in the same form and of the same dimensions as are required of said standards, the denominations of the weights and measures shall be marked and stamped thereon respectively and they shall be sealed with the seal which is kept for that purpose by the treasurer and receiver general.

Deputy state sealer of weights and measures. R. S. 30, § 4. G. S. 51, § 3. P. S. 65, § 3. 1890, 426, §§ 9–11. 1901, 211.

SECTION 8. The treasurer and receiver general shall appoint a deputy state sealer of weights and measures, who shall be sworn, shall give bond for the faithful performance of his official duties, shall have his office in the treasury of the commonwealth, shall perform his duties under the direction and supervision of the treasurer and receiver general and shall receive from the commonwealth an annual salary of twelve hundred dollars and the necessary expenses incurred in the performance of his duties. The treasurer shall provide his deputy with whatever may be necessary for the proper performance of his duties and shall furnish him with duplicates of the authorized public standard weights, measures and balances in the treasury, and he shall keep and use them for sealing weights, measures and balances in the same manner as the standards kept in the treasury are used by the treasurer.

—duties of. 1890, 426, §§ 6, 7. 1901, 425.

SECTION 9. The deputy shall try, adjust and seal the standard weights, measures and balances of every city and town at least once in five years, and shall see that they are kept in good order and condition, and for such purpose he shall at any time, upon the request of a city or town treasurer, visit such city or town. He may also inspect the weights, measures and balances of any person which are used for selling any goods, wares, merchandise or other commodity or for public weighing in any city or town, and if he

finds them inaccurate he shall forthwith inform the mayor or selectmen who shall cause the provisions of this chapter to be enforced. If in the performance of his official duties he discovers a violation of the laws, he may enter a complaint and prosecute the same, and for this purpose shall have like powers and authority as are conferred upon the sealer or deputy sealer of a city or town by sections twenty-nine and thirty. Whoever hinders, obstructs or in any way interferes with him in the performance of his duty shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than sixty days.

SECTION 10. The deputy shall keep a record in detail of the places visited, and of the weights, measures and balances tested by him, and he shall annually, during the first week in January, make a report thereof to the treasurer and receiver general.

Deputy state sealer to keep record. 1890, 426, § 8.

SECTION 11. The treasurer shall provide each county, city and town with a complete set of the standard weights, measures and balances named in the following section.

1799, 60, § 2. 1800, 54. R. S. 30, § 8. 1847, 242, § 8. Res. 1847, 55. 1848, 332, § 1. 1850, 295. G. S. 51, § 4. 1880, 229, § 1. P. S. 65, § 4.

Weights, etc., to be furnished. C. L. 155. 1730–31, 18. 1738–9, 24, § 1.

SECTION 12. Counties, cities and towns shall keep the following standard weights, measures and balances: — A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four, two, one, one-half, one-quarter, one-eighth and one-sixteenth ounces; a set of dry measures consisting of one half-bushel, one eight-quart, one four-quart, one two-quart and one one-quart measures; a set of liquid measures consisting of one gallon, one half-gallon, one quart, one pint, one half-pint and one gill; one balance; one yard measure; and each city and each shire town shall keep the meter and kilogram and such standard troy weights as the treasurer and receiver general may designate. Each county shall keep a set of apothecaries' weights and apothecaries' liquid measures.

Standard weights to be kept by counties, cities, etc. 1890, 426, §§ 1, 2, 4.

SECTION 13. The duplicate sets of apothecaries' weights and apothecaries' liquid measures furnished to county treasurers shall be kept at the county seats and shall be used as standards for apothecaries' weights and apothecaries' liquid measures, as described in section six, for the respective counties within which they are kept.

Counties to have apothecaries' weights, etc. 1897, 443, § 3.

SECTION 14. City treasurers, and town treasurers if so directed by the selectmen, shall, upon request to the treasurer and receiver general, be provided, at the expense of such cities and towns, with duplicate sets of said apothecaries' weights and apothecaries' liquid measures as described in section six, which shall be used as standards in the respective cities and towns in which they are kept.

Cities and towns to have same. 1897, 443, § 4.

SECTION 15. The several county, city, and town treasurers shall, at the expense of their respective counties, cities and towns, provide therein accessible places for the safe and suitable keeping and preservation of the weights, measures and balances furnished by the commonwealth, which shall be used only as standards. Said treasurers shall have the care and oversight thereof; shall see that

Safe keeping, etc., of weights, etc. 1692–3, 30, § 1. 1799, 60, § 2. 1800, 18. R. S. 30, § 5. 1848, 332, §§ 2, 3. G. S. 51, § 5. 1877, 150, § 2.

P. S. 65, § 5.
1897, 443, §§ 3, 4.

they are kept in good order and repair; and if any of them are lost, destroyed or irreparably damaged, shall, at the expense of the county, city or town, replace the same by similar weights, measures or balances. Counties, cities and towns may effect insurance on such weights, measures and balances for their own benefit.

Penalty on treasurers for neglect.
1799, 60, § 2.
R. S. 30, § 7.
1848, 332, § 4.
G. S. 51, § 6.
P. S. 65, § 6.
1897, 443, § 5.

SECTION 16. Every such treasurer who neglects to provide a suitable place for keeping such weights, measures and balances, or to keep them in good order and repair, or who suffers any of them through his neglect to be lost, damaged or destroyed, shall forfeit two hundred dollars.

County and town standards to be tested.
1738–9, 24, § 1.
1799, 60, §§ 2, 3.
1803, 141, § 3.
R. S. 30, §§ 6, 9.
1847, 242, § 7.
1848, 332, § 5.
G. S. 51, § 7.
P. S. 65, § 7.
1890, 426, § 6.
1897, 443, §§ 3–5.

SECTION 17. The standards, except those of apothecaries' weight and apothecaries' liquid measure, which are in the custody of county treasurers shall, at least once in every ten years, and such standards which are in the custody of city and town treasurers shall, at least once in every five years, be tried, adjusted and sealed by the treasurer and receiver general or by his deputy. At least once in every three years, the standards of apothecaries' weights and of apothecaries' liquid measures which are in the custody of county treasurers shall be compared with and adjusted by those in the custody of the treasurer and receiver general, and such standards in the custody of city and town treasurers, with those of the treasurer and receiver general or of the county treasurer. The expense thereof shall be paid by the respective counties, cities and towns. Every treasurer who neglects to have the standards in his care so sealed shall forfeit not more than fifty dollars.

Appointment of sealers and gaugers.
C. L. 155.
1692–3, 30, § 1.
1799, 60, § 4.
R. S. 15, § 38; 30, §§ 12, 13.
G. S. 18, § 37.
1863, 179, § 5.
1876, 123, § 9.
1877, 151, § 1.

SECTION 18. The mayor and aldermen of cities and the selectmen of towns shall annually, in March or April, appoint one or more sealers of weights and measures, or one sealer and one or more deputy sealers to act under the direction of the sealer, and they may also appoint gaugers of liquid measures; and may at any time remove such sealers, deputy sealers and gaugers, and appoint others in their places. P. S. 65, § 8. 1882, 42.

Sealers accountable to towns for standards.
1799, 60, §§ 4, 5.
R. S. 30, § 15.
G. S. 51, § 9.
P. S. 65, § 9.

SECTION 19. Every sealer of weights and measures shall receive from the treasurer of his city or town a set of the standards and a seal, and shall give a receipt therefor, stating the condition in which they are received; and he shall be accountable to his city or town for the due preservation thereof in like condition until he returns them to the treasurer.

Each treasurer, sealer, etc., to have a seal.
C. L. 155, 279.
1705–6, 6, § 4.
1730–31, 18.
1738–9, 24, § 4.
1799, 60, §§ 1, 3.
1800, 18.
R. S. 30, §§ 3, 5, 11, 21.
1847, 242, § 3.
G. S. 51, §§ 10, 13.
P. S. 65, § 11.

SECTION 20. The treasurer and receiver general and his deputy, the county treasurers, and the city and town sealers shall each keep a seal for his several use. The seals of the treasurer and of his deputy shall bear the letters "*C. M.*"; those of county treasurers shall bear the initial and final letters of their respective counties, followed by the letters "*Co.*"; and those of city and town sealers, the name of their respective cities or towns, or such intelligible abbreviation thereof as the mayor and aldermen or selectmen may prescribe. Any such treasurer or sealer who neglects to keep a seal in accordance with the provisions of this section shall forfeit not more than twenty dollars.

SECTION 21. Sealers of weights and measures shall annually give public notice by advertisement, or by posting, in one or more public places in their respective cities and towns, notices to all inhabitants or persons having usual places of business therein who use weights, measures or balances for the purpose of selling goods, wares, merchandise or other commodities or for public weighing, to bring in their weights, measures and balances to be adjusted and sealed. Such sealers shall attend in one or more convenient places, and shall adjust, seal and record all weights, measures and balances so brought in.

Annual notice of adjustment.
C. L. 155.
1692-3, 30, § 1.
1738-9, 24, § 3.
1799, 60, § 6.
R. S. 30, § 16.
1847, 242, § 5.
G. S. 51, § 11.
1876, 123, § 1.
1877, 151, § 2.
P. S. 65, § 12.
12 Gray, 143.
111 Mass. 320.

SECTION 22. After giving said notice, said sealers shall go to the houses, stores and shops of persons who neglect to comply therewith, and, having entered the same with the assent of the occupants thereof, shall adjust and seal their weights, measures and balances. 1870, 218, § 2. 1876, 123, § 2. 1877, 151, § 2. P. S. 65, § 13.

Sealers to go to house or store to seal, when.
1705-6, 6, § 1.
1799, 60, § 7.
1817, 50.
R. S. 30, § 18.
1863, 179, § 1.

SECTION 23. Said sealers shall go once a year, and oftener if necessary, to every hay and coal scale and to every platform balance within their respective cities and towns which cannot be easily or conveniently removed, and shall test the accuracy of, adjust and seal the same. G. S. 51, § 12. 1876, 123, § 3. P. S. 65, § 14.

—to test hay, etc., scales, annually.
1705-6, 6, § 5.
1835, 126.
R. S. 30, § 19.
1847, 242, § 6.

SECTION 24. Whoever uses scales, weights or measures for the purpose of buying or selling any commodity may, if he desires it, have his weights and measures, used for such purpose, tested and sealed by the sealer of weights and measures.

—to test weights upon request.
1870, 218, §§ 1, 3.
1876, 123, § 4.
P. S. 65, § 15.

SECTION 25. Apothecaries and all other persons dealing in drugs, medicines or merchandise commonly sold by apothecaries' weight or by apothecaries' liquid measure shall, at least once in three years, cause such weights and measures so used to be tested and sealed either by the county treasurer or by the sealers of weights and measures in the respective cities and towns in which they carry on business. County treasurers, for the purposes of this section, shall be sealers of weights and measures in their respective counties.

Test of apothecaries' weights, etc.
1897, 443, § 6.

SECTION 26. Whoever sells or deals in drugs, medicines or merchandise which require the use of apothecaries' weights or apothecaries' liquid measures or in the sale of which they are commonly used, and does not have such weights and measures tested in accordance with the provisions of this chapter shall be punished by a fine of not less than five nor more than fifty dollars for each offence.

Penalty for failure to test.
1897, 443, § 7.

SECTION 27. If a sealer of weights and measures cannot seal any weights, measures and balances in the manner before provided, he may mark them with a stencil or by other suitable means, so as to show that they have been inspected; but he shall in no case seal or mark as correct any weights, measures or balances which do not conform to the standards. If such weights, measures or balances can be readily adjusted by such means as he has at hand, he may adjust and seal them; but if they cannot be readily ad-

Weights to be marked with a stencil, when.
1877, 151, § 3.
P. S. 65, § 16.

justed, he shall affix to such weights, measures or balances a notice forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards; and whoever removes said notice without the consent of the officer affixing the same shall for each offence forfeit not more than fifty dollars, to be equally divided between the city or town and the complainant.

Sealer to have duplicate sets of weights, etc. 1877, 151, § 4. P. S. 65, § 17.

SECTION 28. A sealer or his deputy, when visiting the place of business of any person for the purpose of testing any weights, measures or balances, may use for that purpose such weights, measures or balances as he can conveniently carry with him; and each city and town shall furnish its sealer with one or more duplicate sets of weights, measures and balances, which shall at all times be kept to conform to the standards provided by the commonwealth; and all weights, measures and balances so sealed shall be deemed to be legally sealed, as if they were tested and sealed with the standard weights, measures and balances.

— may seize for evidence. 1877, 151, § 5. P. S. 65, § 18. 1897, 443, § 8.

SECTION 29. A sealer or deputy sealer of weights and measures may seize without a warrant such weights, measures or balances as may be necessary to be used as evidence in cases of violation of the law relative to the sealing of weights and measures; and they shall be returned to the owners or forfeited as the court may direct.

Seizure, etc., of unlawful measures. 1883, 225. 103 Mass. 456.

SECTION 30. A sealer or deputy sealer of weights and measures, or any person specially authorized by the mayor and aldermen or selectmen, may seize any measures which are in the possession of the vendor of merchandise and which are used or intended to be used for measuring merchandise offered for sale by him if they are not of the shape or dimensions, or are not sealed, as required by law; any such vendor who has in his possession such measures, with intent to use them in violation of law, shall be punished by a fine of not more than twenty dollars for each offence, and such measures, upon proper proceedings, shall be destroyed. Such possession of such measures shall be prima facie evidence that they were intended to be used in violation of law. Violations of the provisions of this section shall be prosecuted by said officers.

Sealer to test incorrect weights upon complaint. 1863, 179, §§ 2, 3. 1870, 218, § 4. 1876, 123, §§ 5, 7. P. S. 65, §§ 19, 21. 1897, 443, § 8. 114 Mass. 431, 433.

SECTION 31. If any person informs a sealer of weights and measures that he has reasonable cause to believe, or if such sealer has reasonable cause to believe, that a weight, measure or balance used in the sale of any commodity within his city or town is incorrect, said sealer shall go to the place where such weight, measure or balance is, shall test it and mark it according to the result of the test; and if it is incorrect and cannot be adjusted, he shall attach thereto a notice of that fact and forbidding the use thereof until it has been made to conform to the authorized standard. If a sealer has reasonable cause to believe that a weight, measure, scale, balance or beam has been altered since it was last adjusted and sealed, he shall enter the premises in which it is kept or used and shall examine the same. Whoever uses a weight, measure or balance after refusing permission to a sealer to test it shall be punished by a fine of not less than ten nor more than one hundred dollars.

SECTION 32. All weights, measures and balances which cannot be made to conform to the standard shall be stamped "*condemned*" or "*CD.*" by the sealer. 1876, 123, § 6. P. S. 65, § 20. 1897, 443, § 8.

Weights to be marked "condemned," when. 1870, 218, § 5.

SECTION 33. Whoever knowingly uses a false or condemned weight, measure, scale, balance or beam or, after the same has been adjusted and sealed, alters it so that it does not conform to the public standard and fraudulently makes use of it, or whoever uses the same for weighing or measuring any commodity sold or exchanged, shall for each offence forfeit fifty dollars to be equally divided between the city or town and the complainant.

Penalty for using false weights or measures. 1863, 179, § 3. 1876, 123, §§ 6, 7. P. S. 65, §§ 20, 21. 1897, 443, § 8.

SECTION 34. Each sealer of weights and measures, including the county treasurers, shall receive a fee of one dollar for sealing each platform balance if weighing five thousand pounds or more, and fifty cents if weighing less than that amount, and three cents each for sealing all other weights, measures, scales, beams or balances. He shall also have a reasonable compensation for all necessary repairs, alterations and adjustments made by him. P. S. 65, § 22.

Fees of sealers. C. L. 155, 156. 1692–3, 30, § 1. 1730–31, 18. 1738–9, 24, § 6. 1743–4, 29, § 2. 1799, 60, §§ 3, 6. R. S. 30, §§ 10, 17. 1847, 242, §§ 4, 6. G. S. 51, § 14. 1870, 218, § 6. 1876, 123, §§ 2, 3.

SECTION 35. Cities and towns may establish ordinances and by-laws providing that the sealer of weights and measures shall be paid by a salary, and that he shall account for and pay into the city or town treasury the fees received by him by virtue of his office; and if such salary is paid, no fees shall be charged for services rendered under the provisions of section twenty-one.

Sealers may be paid salaries. 1863, 179, § 4. 1876, 123, §§ 1, 8. P. S. 65, § 23.

SECTION 36. Vibrating steelyards may be used if each beam and the poises thereof are annually tried, proved and sealed by a sealer of weights and measures. R. S. 30, § 22. G. S. 51, § 15. P. S. 65, § 24.

Vibrating steelyards to be tested. 1800, 32. 1816, 60.

SECTION 37. Whoever sells or, if by the custom of trade such weights, measures, scales, beams or balances are provided by the buyer, buys by any other weights, measures, scales, beams or balances than those which have been sealed as before provided or as provided in chapter sixty-three shall forfeit not more than twenty dollars for each offence to the use of the person suing therefor. 1851, 68. G. S. 51, § 16. P. S. 65, § 25. 1897, 443, § 8. 109 Mass. 220.

Penalty for using unsealed weights, etc. C. L. 279. 1705–6, 6, § 2. 1738–9, 24, § 7. 1799, 60, § 8. R. S. 30, § 24. 1847, 242, §§ 5, 6.

SECTION 38. The seller may recover the fair market value of goods, wares or merchandise sold if they were, for the purposes of the sale, weighed or measured upon scales, measures, weights, beams or balances which were not sealed according to law, or by a person not a sworn weigher, measurer or surveyor, or by a person not authorized by law to weigh or measure the same, if such sale is made in good faith and the purchaser is not injured thereby.

Value of goods sold by unsealed weights, how collected. 1875, 153. 1878, 66. P. S. 65, § 26. 109 Mass. 220. 119 Mass. 285.

SECTION 39. If commodities are sold by the hundredweight, it shall be understood to mean the net weight of all packages of not more than one hundred pounds avoirdupois; and all contracts concerning goods sold by weight shall be understood and construed accordingly.

"Hundredweight," how construed. 1826, 121, § 1. R. S. 30, § 25. G. S. 51, § 17. P. S. 65, § 27. 128 Mass. 585.

SECTION 40. Every public weigher of goods or commodities shall weigh the same according to the provisions of the preceding

Rules for weighing.

Public weighers.
1826, 121, § 2.
R. S. 30, §§ 26, 27.
G. S. 51, § 18.
P. S. 65, § 28.

section, and shall make his certificate accordingly; and for each refusal or neglect he shall forfeit not more than ten dollars. Every weigher of goods appointed by a city or town, and every weigher for hire or reward, shall be a public weigher within the provisions of this section.

Measures for salt and grain regulated.
1823, 117.
R. S. 30, § 23.
G. S. 51, § 19.
P. S. 65, § 29.

SECTION 41. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, every measure by which salt or grain is sold shall, in addition to being conformable in capacity and diameter to the public standards, have a bar of iron, approved by a sealer of weights and measures, across the middle thereof at the top, and a bar or standards of iron, approved as aforesaid, from the centre of the first-mentioned bar to the centre of the bottom of the measure; and every such measure shall be filled by shovelling such salt or grain into the same, and the striking thereof shall always be lengthwise of the first described bar. And whoever sells or exposes for sale any salt or grain in any other measure, or fills or strikes such measure in any other manner than is provided in this section, shall forfeit fifty cents for every bushel of salt or grain so measured, filled, or stricken; but salt may be measured from vessels in such measures as are used by the government of the United States, or, as authorized by any city or town, in tubs or in proportional parts of hogsheads, without bars.

Appointment of weighers of boilers, etc.
1863, 173.
P. S. 65, § 30.

SECTION 42. The mayor and aldermen of a city or selectmen of a town in which boilers and heavy machinery are sold shall appoint, and may remove, one or more persons, not engaged in the manufacture or sale thereof, to be weighers of boilers and heavy machinery, who shall be sworn to the faithful performance of their duties. The board appointing them may fix their fees, which shall be paid by the seller.

Sealing of milk cans, etc.
1900, 369.
1901, 360.

SECTION 43. Glass bottles or jars which are used for the distribution of milk or cream to consumers, and which hold, when filled to a level with the bottom of the cap or stopple, not less than seven ounces and six drams and not over eight ounces and two drams; not less than fifteen ounces and five drams and not over sixteen ounces and four drams; not less than thirty-one ounces and four drams and not over thirty-two ounces and four drams; not less than forty-seven ounces and three drams and not over forty-eight ounces and five drams; not less than sixty-three ounces and two drams and not over sixty-four ounces and six drams, shall be sealed as measures under the provisions of section twenty-one. All dealers in milk or cream who use glass bottles or jars for the distribution of milk or cream to consumers shall bring in such bottles or jars to the office of the sealer of weights and measures in their respective cities and towns, to be sealed as aforesaid; but no fee shall be charged or received for sealing them. If a bottle or jar has once been sealed by the sealer of weights and measures, it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream to consumers.

CHAPTER 63.

OF THE METRIC SYSTEM OF WEIGHTS AND MEASURES.

Metric system authorized. 1877, 40, § 1. P. S. 66, § 1. U. S. Rev. Sts., § 3569.

SECTION 1. The weights and measures of the metric system may be employed and used in this commonwealth, and no contract or dealing shall be deemed invalid and no pleading in any court shall be open to objection because the weights or measures are stated therein in terms of the metric system. The metric weights and measures received from the United States and now in the treasury of the commonwealth may be used as authorized public standards of weights and measures, and shall in no case be removed from the treasury except under necessity for their preservation or repair.

Effect of various measures. 1877, 40, § 2. P. S. 66, § 2. U. S. Rev. Sts., § 3570.

SECTION 2. The following tables shall be recognized in the construction of contracts and in legal proceedings as establishing in terms of the metric system the equivalents of the other weights and measures expressed therein and may also be used for computing, determining and expressing in customary weights and measures the weights and measures of the metric system.

Measures of Length.

Measures of length.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.	
Myriameter	10,000 meters.	6.2137	miles.
Kilometer	1,000 meters.	0.62137	mile, or 3,280 feet 10 inches.
Hectometer	100 meters.	328	feet 1 inch.
Dekameter	10 meters.	393.7	inches.
Meter	1 meter.	39.37	inches.
Decimeter	1-10 of a meter.	3.937	inches.
Centimeter	1-100 of a meter.	0.3937	inch.
Millimeter	1-1000 of a meter.	0.0394	inch.

Measures of Surface.

—of surface.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.	
Hectare	10,000 square meters.	2.471	acres.
Are	100 square meters.	119.6	square yards.
Centare	1 square meter.	1,550	square inches.

Measures of Capacity.

—of capacity.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE.	
Names.	Number of Liters.	Cubic Measure.	Dry Measure.	Liquid or Wine Measure.
Kiloliter or Stere	1,000	1 cubic meter	1.308 cubic yards	264.17 gallons.
Hectoliter	100	1-10 of a cubic meter	2 bush. and 3.35 pecks	26.417 gallons.
Dekaliter	10	10 cubic decimeters	9.08 quarts	2.6417 gallons.
Liter	1	1 cubic decimeter	0.908 quart	1.0567 quarts.
Deciliter	1-10	1-10 of a cubic decimeter	6.1022 cubic inches	0.845 gill.
Centiliter	1-100	10 cubic centimeters	0.6102 cubic inch	0.338 fluid ounce.
Milliliter	1-1000	1 cubic centimeter	0.061 cubic inch	0.27 fluid dram.

Weights.

Weights.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE.
Names.	Number of Grams.	Weight of what Quantity of Water at Maximum Density.	Avoirdupois Weight.
Millier or Tonneau . .	1,000,000	1 cubic meter	2204.6 pounds.
Quintal	100,000	1 hectoliter	220.46 pounds.
Myriagram . . .	10,000	10 liters	22.046 pounds.
Kilogram or Kilo . .	1,000	1 liter	2.2046 pounds.
Hectogram	100	1 decaliter	3.5274 ounces.
Dekagram	10	10 cubic centimeters . . .	0.3527 ounce.
Gram	1	1 cubic centimeter . . .	15.432 grains.
Decigram	1-10	1-10 of a cubic centimeter .	1.5432 grains.
Centigram	1-100	10 cubic millimeters . . .	0.1543 grain.
Milligram	1-1000	1 cubic millimeter . . .	0.0154 grain.

Duties of state and town treasurers. 1877, 40, § 4. P. S. 66, § 3.

SECTION 3. The duties of the treasurer and receiver general and his deputy and the duties and responsibilities of the treasurer of each town, with respect to the keeping, care, verification and use of the standard weights and measures of the metric system, shall be the same as those established by law with respect to other standard weights and measures.

Sealing of metric weights and measures. 1877, 40, § 5. P. S. 66, § 4. 1890, 426, § 9.

SECTION 4. The deputy state sealer shall verify, adjust and seal all metric weights and measures brought to him for that purpose. The sealer of weights and measures in each town which has received the standard metric weights and measures shall verify, adjust and seal all metric weights and measures brought to him for that purpose from within the county in which such town is situated, and he shall receive a reasonable compensation therefor; but he shall claim no fees for any sealing, verification or adjustment for the performance of which he may otherwise receive compensation by salary paid by the town.

Duties of persons using metric system. 1877, 40, § 6. P. S. 66, § 5.

SECTION 5. Every person who uses weights or measures of the metric system for the purpose of selling any goods, wares, merchandise or other commodities shall have them adjusted, sealed and recorded by an authorized sealer of weights and measures, and shall thereafter be responsible for the correctness and exactness of the same; and every person who illegally or fraudulently uses the metric weights or measures shall be liable to the same penalty to which he would have been liable if he had used other weights and measures.

CHAPTER 64.

OF AUCTIONEERS.

Auctioneers to be licensed. 1772-3, 44, §§ 1, 4. 1773-4, 10. 1780, 25, §§ 1, 3; 30. 1789, 59, §§ 1, 7. 1795, 8, §§ 1, 3. R. S. 29, §§ 1, 2, 12.

SECTION 1. The mayor and aldermen of a city or the selectmen of a town may license one or more suitable inhabitants of their respective cities or towns, who have resided therein for six months before application is made for such license, to be auctioneers therein for the term of one year, and may receive two dollars for each license to the use of the city or town. The city or town

clerk shall sign the licenses and record them in a book to be kept by him for that purpose. 1886, 289. 1899, 235. G. S. 50, § 1. P. S. 67, § 1.

SECTION 2. If, after application to them in writing, they unreasonably refuse or neglect to grant such license, the applicant may, after giving them fourteen days' notice, apply to the county commissioners, who, after hearing, may grant a license. P. S. 67, § 2. County commissioners may license, when. 1815, 29. R. S. 29, § 3. G. S. 50, § 2.

SECTION 3. Soldiers and sailors who are resident in this commonwealth, who served in the army or navy during the war of the rebellion and who received an honorable discharge from such service shall be exempt from the payment of fees for an auctioneer's license. Soldiers, etc., exempt from fees. 1895, 456.

SECTION 4. Each auctioneer shall, if required, give bond, in a reasonable penal sum and with sufficient sureties, to the treasurer of the city or town in which he is licensed, with condition that he shall in all things conform to the laws relative to auctioneers. Bond. 1780, 25, § 5. 1822, 87, § 3. R. S. 29, § 6. 1857, 232, § 1. G. S. 50, § 3. P. S. 67, § 3.

SECTION 5. Each auctioneer shall keep a fair and particular account of all goods and chattels sold by him, and of the persons from whom they were received and to whom they have been sold. R. S. 29, § 5. G. S. 50, § 4. P. S. 67, § 4. Account of sales. 1772-3, 44, § 2. 1780, 25, § 2. 1795, 8, § 2.

SECTION 6. An auctioneer may sell by public auction in any place within his county; and, when employed by others, may sell real or personal property in any place within the commonwealth, if such sale is made where such real or personal property is situated: *provided*, that such personal property does not consist of goods, wares or merchandise which have been brought into a city or town in the commonwealth by persons engaged in the business of travelling and carrying stocks of goods, wares or merchandise from one city or town to another within the commonwealth for the purpose of selling the same by auction. An auctioneer who sells by auction in a city or town in which he is not authorized to sell shall forfeit fifty dollars. Auctioneer may sell within his county, etc. 1789, 59, §§ 5, 6. R. S. 29, § 8. 1837, 233. 1852, 115, § 1. G. S. 50, § 6. P. S. 67, § 6. 1890, 449, § 1. 3 Met. 159.

SECTION 7. Goods, wares and merchandise brought into a city or town for the purpose of being sold by auction shall be sold by auction therein only by an auctioneer duly licensed in said city or town, or in some other city or town within the commonwealth, and having a regular and established place of business in the city or town in which the goods, wares or merchandise are to be sold. Said auctioneer shall, if a non-resident of the city or town in which he has his place of business, obtain from the mayor and aldermen or selectmen a permit to hold such sales by auction therein, and the mayor and aldermen or the selectmen may require a special license fee for the holding of such sales. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars. Sales by auction regulated. 1890, 449, § 2. 1891, 144.

SECTION 8. The tenant or occupant of a house or store, having the actual possession and control of the same, who knowingly permits a person to sell real or personal property by public auction in Tenants liable for unlicensed sales. 1814, 46. R. S. 29, § 10.

G. S. 50, § 8.
P. S. 67, § 8.

such house or store, or in any apartment or yard appurtenant thereto, contrary to the provisions of this chapter, shall forfeit not more than five hundred dollars.

Conditional licenses.
1819, 132, § 1.
R. S. 29, §§ 13, 14.
G. S. 50, § 12.
P. S. 67, § 12.

SECTION 9. Licenses may be granted upon such conditions relative to the places of selling goods and chattels within a city or town as the mayor and aldermen or selectmen deem expedient; and if an auctioneer makes a sale by auction at a place within said city or town not authorized by his license, he shall be liable to like penalties as if he had sold without a license.

Penalty for receiving goods from minors.
1772–3, 44, § 2.
1780, 25, § 2.
1789, 59, § 8.
1795, 8, § 2.

SECTION 10. An auctioneer who receives for sale by auction any goods from a minor, knowing him to be such, shall forfeit to the use of the city or town not more than two hundred dollars for each offence. R. S. 29, § 4. G. S. 50, § 5. P. S. 67, § 5. 1886, 289. 5 Mass. 505.

— for selling by auction contrary to law.
R. S. 29, § 9.
G. S. 50, § 7.
P. S. 67, § 7.

SECTION 11. Goods or chattels which are sold or offered for sale by auction, except as provided in this chapter, shall be forfeited to the use of the city or town in which such sale or offer is made, and may be seized by the mayor and aldermen or selectmen, and libelled according to the provisions of chapter two hundred.

— for selling without license.
1772–3, 44, § 1.
1778–9, 29, § 1.
1780, 25, § 1.
1789, 59, § 1.

SECTION 12. Whoever, not being licensed and qualified as an auctioneer, sells or attempts to sell any real or personal property by public auction, shall for each offence forfeit not more than five hundred dollars. 1822, 87, § 2. R. S. 29, § 7. G. S. 50, § 9. P. S. 67, § 9. 19 Pick. 287, 482. 10 Met. 23. 8 Allen, 99. 139 Mass. 31.

— for deceit in sale by auction.
1822, 87, § 6.
R. S. 29, § 17.

SECTION 13. An auctioneer or other person who is guilty of fraud or deceit in relation to a sale by auction shall for each offence forfeit not more than one thousand dollars. 1857, 232, § 2. G. S. 50, § 11. P. S. 67, § 11. 19 Pick. 287.

— for fraudulent bankrupt sales.
1890, 449, § 3.

SECTION 14. Whoever sells or attempts to sell by auction or whoever advertises for sale any goods, wares or merchandise falsely representing or pretending that such goods, wares or merchandise are, in whole or in part, a bankrupt or insolvent stock, or damaged goods, or goods saved from fire, or makes any false statement as to the previous history or character of such goods, wares or merchandise, shall be punished by a fine of not more than one hundred dollars, and shall be further liable in an action of contract to any person purchasing any such goods, wares or merchandise because of such representation or statement in an amount equal to three times the amount paid therefor.

Sales by sheriffs, etc., not affected.
1772–3, 44, § 3.
1777–8, 2, § 1.
1778–9, 29, § 1.
1780, 25, § 2.
1789, 59, § 11.
1795, 8, § 2.

SECTION 15. The provisions of the preceding sections shall not extend to sales made by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, guardians, assignees of insolvent debtors or by any other person required by law to sell real or personal property. R. S. 29, § 11. G. S. 50, § 10. P. S. 67, § 10.

CHAPTER 65.

OF ITINERANT VENDORS, HAWKERS AND PEDLERS.

SECTIONS 1–12. — Itinerant Vendors.
SECTIONS 13–29. — Hawkers and Pedlers.

ITINERANT VENDORS.

SECTION 1. The term "itinerant vendor" for the purposes of this chapter shall mean and include any person, either principal or agent, who engages in a temporary or transient business in this commonwealth, either in one locality or in travelling from place to place selling goods, wares and merchandise, and who, for the purpose of carrying on such business, hires, leases or occupies a building or structure for the exhibition and sale of such goods, wares and merchandise.

"Itinerant vendor" defined. 1890, 448, § 1. 156 Mass. 215. 164 Mass. 338.

SECTION 2. The provisions of the first twelve sections of this chapter shall not apply to sales by commercial travellers or by selling agents to dealers in the usual course of business, nor to bona fide sales of goods, wares or merchandise by sample for future delivery, nor to hawkers on the streets or pedlers from vehicles, nor shall they affect the right of any city or town to pass ordinances or by-laws authorized by law relative to itinerant vendors.

Not to apply to commercial travellers, etc. 1890, 448, §§ 2, 5.

SECTION 3. Every itinerant vendor, whether principal or agent, shall, before commencing business in this commonwealth, make application in writing, under oath, to the secretary of the commonwealth for a license, stating the names and residences of the owners or parties in whose interest said business is conducted, shall make a special deposit of five hundred dollars with the secretary and pay to him a state license fee of twenty-five dollars. The secretary shall thereupon issue to him an itinerant vendor's license authorizing him to do business in this commonwealth for the term of one year from the date thereof. Every license shall contain a copy of the application therefor, shall not be transferable, shall not authorize more than one person to sell goods as an itinerant vendor, either by agent or clerk or in any other way than in his own proper person, shall expire in one year from the date thereof and may be earlier surrendered for cancellation. A licensee may have the assistance of one or more persons in conducting his business who may aid him but not act for or without him.

License, deposit and fee. 1890, 448, §§ 5–7, 14.

SECTION 4. The secretary of the commonwealth shall keep on file all applications for licenses and a record of all licenses issued thereon. All files and records of said secretary and of the respective city or town clerks shall be in convenient form and open to public inspection.

Application for license to be filed. 1890, 448, § 7.

SECTION 5. Before selling under said state license every itinerant vendor shall pay a local license fee to the clerk of the city or town in which he proposes to make sales. Such fee shall be ascertained in the manner provided in the following section, and upon

Local license and fee. 1890, 448, §§ 5, 8.

the payment thereof and proof of the payment of all other license fees, if any, chargeable upon local sales, the clerk shall record the state license of such vendor in full, shall indorse upon it the words "local license fees paid" and affix thereto his official signature and the date of such indorsement.

Local license fee, how fixed. 1890, 448, § 9. 1894, 525.

SECTION 6. Every itinerant vendor, before making any sales of goods, wares and merchandise in a city or town, shall make application for a local license to the mayor and aldermen or selectmen or other board authorized to issue such licenses and shall file a true statement, under oath, of the average quantity and value of the stock of goods, wares and merchandise kept or intended to be kept or exposed by him for sale. The mayor and aldermen or selectmen or other such board shall submit said statement to the assessors of said city or town, who shall forthwith, after examination and valuation of such goods, wares and merchandise, transmit a certificate thereof to the mayor and aldermen or selectmen or other such board, who may authorize the city or town clerk, upon the payment by the applicant of a fee equal to the taxes assessable in said city or town under the last preceding tax levy therein upon an amount of property equal to said valuation, to issue to him a license authorizing the sale of such goods, wares and merchandise within such city or town. Such license shall remain in force so long as the licensee shall continuously keep and expose for sale in such city or town such stock of goods, wares and merchandise, but not later than the first day of May following its date. The mayor and aldermen or selectmen or other such board may grant such license without the filing of said statement as aforesaid upon the payment of a license fee to be fixed by them.

Penalty for neglect to file statement. 1890, 448, § 10.

SECTION 7. Whoever, being an itinerant vendor, neglects or refuses to file the statement described in the preceding section, if required by the mayor and aldermen or selectmen or other such board, or makes a false or fraudulent representation in said statement, shall be punished by a fine of not less than five nor more than twenty dollars for each day during which such goods, wares or merchandise are kept or exposed for sale.

Bankrupt sales, etc., regulated. 1890, 448, § 12.

SECTION 8. No itinerant vendor shall advertise, represent or hold forth any sale as an insurance, bankrupt, insolvent, assignee's, trustee's, executor's, administrator's, receiver's, wholesale, manufacturers' wholesale or closing out sale, or as a sale of any goods damaged by smoke, fire, water or otherwise or in any similar form, unless he shall before so doing state under oath to the secretary of the commonwealth, either in the original application for a state license or in a supplementary application subsequently filed, all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares or merchandise were obtained, the date of delivery to the person applying for the license, the place from which said goods, wares and merchandise were last taken and all details necessary to exactly locate and fully identify all goods, wares and merchandise to be so sold, and said statement shall be copied on the state license.

SECTION 9. Every itinerant vendor who sells or exposes for sale, at public or private sale, any goods, wares or merchandise without state and local licenses therefor, properly indorsed, or files any application, original or supplementary, which contains any false statement, or being licensed fails to comply with all the requirements of the preceding section and every person, both principal and agent, who, by circular, handbill, newspaper or in any other manner, advertises any such unlicensed sales, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than sixty days, or by both such fine or imprisonment.

Penalty for selling without license, etc. 1890, 448, §§ 3, 4, 8, 13.

SECTION 10. If a person who is liable therefor, after demand made by the clerk of the city or town in which he is located, refuses or neglects to pay the license fee provided for in section five, the clerk may, in his own name but for the use and benefit of such city or town, maintain an action of contract therefor by trustee process or otherwise, in like manner as for his own debt.

Action for recovery of license fee. 1890, 448, § 11.

SECTION 11. Upon the expiration and return or surrender of each state license the secretary of the commonwealth shall cancel the same, indorse the date of delivery and cancellation thereon, and place the same on file. He shall then hold the special deposit of the licensee thereunder for sixty days and, after satisfying all claims made upon the same under the provisions of the following section, shall return the surplus to the licensee.

Cancellation of surrendered license. 1890, 448, § 15.

SECTION 12. Each deposit made with the secretary of the commonwealth shall be subject to attachment and execution in behalf of creditors of the licensee whose claims arise in connection with the business done under his state license, and the secretary of the commonwealth may be held to answer as trustee, under the trustee process, in any civil action in contract or tort brought against any licensee and shall pay over under order of court, or upon execution, such amount of money as he may be chargeable with upon his answer. Said deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violations of the provisions of the preceding sections, and the clerk of the court in which, or the trial justice by whom, such fine or penalty is imposed shall thereupon give notice of the name of the licensee upon whom such fine or penalty is imposed and of the amount thereof to the secretary of the commonwealth, who, if he has in his hands a sufficient amount deposited by such licensee, shall pay the amount so specified to said clerk or trial justice, and if the secretary shall not have a sufficient amount so deposited he shall make payment as aforesaid of so much as he has in his hands. All judgments, fines or penalties shall be paid in the order in which notice of the claim is received by the secretary of the commonwealth, until all such claims are satisfied or the deposit exhausted, but no notices filed after the expiration of the sixty days limit aforesaid shall be valid. No payment of any part of said deposit shall be made to a licensee unless so much thereof is retained as is required to discharge all claims due of which notice has been received and which remain undecided or unpaid.

Special deposit attachable, when. 1890, 448, § 16.

HAWKERS AND PEDLERS.

Sales by hawkers and pedlers.
1713–14, 7.
1721–2, 6.
1726–7, 4.
1785, 2.
1799, 20.
1820, 45.
R. S. 35, § 7.
1846, 244, § 1.
G. S. 50, § 27.
1864, 151, § 3.
1870, 331.
1878, 216, § 1.
P. S. 68, §§ 16, 19.
12 Cush. 493.
14 Gray, 29.

SECTION 13. Whoever, except itinerant vendors, commercial travellers, selling agents to dealers in the usual course of business and persons selling by sample for future delivery, goes from town to town or from place to place in the same town carrying for sale or exposing for sale goods, wares or merchandise shall be deemed a hawker or pedler within the meaning of this chapter. Hawkers and pedlers selling or exposing for sale goods, wares or merchandise, except as permitted by the provisions of this chapter shall forfeit not more than two hundred dollars for each offence, to be equally divided between the county and the complainant.

114 Mass. 267. 120 Mass. 183. 157 Mass. 392. 175 Mass. 325. 156 U. S. 296.

— of certain articles prohibited.

SECTION 14. The sale by hawkers or pedlers of jewelry, wines, spirituous liquors and playing cards is prohibited.

1820, 45. R. S. 35, § 8. 1846, 244, § 2. G. S. 50, § 15. P. S. 68, § 3.

— without license.
1820, 45.
1823, 122.
R. S. 35, § 8.
1846, 244, § 2.
G. S. 50, § 13.
1878, 216, § 2.
P. S. 68, § 1.
1883, 168.
1899, 260.
1900, 157.
157 Mass. 392.
175 Mass. 325.

SECTION 15. Hawkers and pedlers may sell without a license books, newspapers, pamphlets, fuel, fruits, provisions, ice, live animals, brooms, agricultural implements, hand tools used in making boots and shoes, agricultural products of the United States, and the products of their own labor or of the labor of their families, if such sale is not in violation of any ordinance or by-laws of a city or town. Cities and towns may, by ordinance or by-law not inconsistent with the provisions of this chapter, regulate the sale and exposing for sale by hawkers and pedlers of said articles, and may affix penalties for the violation thereof.

Licenses.
G. S. 50, § 13.
1862, 178.
P. S. 68, § 1.
1899, 260.
156 U. S. 296.

SECTION 16. Articles other than those mentioned in the preceding section and not prohibited by section fourteen, including those of the growth or production of foreign countries, shall not be sold by hawkers or pedlers unless duly licensed as hereinafter provided.

Regulation of sales by minors.
1846, 244, § 2.
G. S. 50, § 14.
P. S. 68, § 2.
1892, 331.

SECTION 17. The mayor and aldermen or selectmen may make regulations relative to the sale by minors of any goods, wares or merchandise the sale of which is permitted by section fifteen, and may prohibit such sales, or may require a minor to obtain from them a license therefor to be issued on terms and conditions prescribed in such regulations. A minor who sells such articles without a license if one is required or who violates the conditions of his license or any of the provisions of said regulations shall be punished by a fine of not more than ten dollars for each offence.

Same subject.
1887, 422.

SECTION 18. A parent or other person who employs a minor under the age of fifteen years in peddling without a license if one is required or who, having the care or custody of such minor, permits him to engage in such employment shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

Pedlers' licenses.
1846, 244, §§ 2-5, 7.
1851, 298, § 1.
G. S. 50, §§ 16-20.
1864, 151, § 2.
1870, 331.
P. S. 68, §§ 4-8.
156 U. S. 296.

SECTION 19. The secretary of the commonwealth may grant a license to go about exposing for sale and selling any goods, wares or merchandise, except jewelry, wines, spirituous liquors and playing cards, to any person who files in his office a certificate signed by the mayor of a city or by a majority of the selectmen of a town, stating that to the best of his or their knowledge and belief the applicant therein named is of good repute for morals and integrity, and is, or has declared his intention to become, a citizen of the United States. The mayor or selectmen, before granting such certificate, shall require the applicant to make oath that he is the person named therein, and that he is, or has declared his intention to become, a citizen of the United States. Such oath shall be certified by a justice of the peace and shall accompany the certificate. The secretary shall cause the names of such cities and towns as the applicant designates, with the amounts to be paid to the respective treasurers thereof, as herein provided to be inserted in every such license, and shall receive from the applicant one dollar for each city and town so inserted. The licensee may sell in any city and town mentioned in his license any goods, wares or merchandise, not prohibited in section fourteen, upon payment to the treasurer thereof of the following fees: for each town containing not more than one thousand inhabitants, according to the then latest census, state or national, three dollars; for each town containing more than one thousand and not more than two thousand inhabitants, six dollars; for each town containing more than two thousand and not more than three thousand inhabitants, eight dollars; for each town containing more than three thousand and not more than four thousand inhabitants, ten dollars; and for each city and for all other towns, ten dollars and one dollar for every one thousand inhabitants thereof over four thousand; but the fee shall in no case exceed twenty-five dollars, and the amount paid shall be certified by the city or town treasurer on the face of the license. A licensee resident in a city or town, in which he pays taxes upon his stock in trade and is qualified to vote, shall not be required to pay any fee for his license for said city or town. The secretary may grant as aforesaid special state licenses upon payment by the applicant of fifty dollars for each license; and the licensee may expose for sale in any city or town in the commonwealth any goods, wares or merchandise, the sale of which is not prohibited.



County licenses.
1846, 244, § 7.
G. S. 50, § 20.
P. S. 68, § 8.

SECTION 20. The secretary may also grant as aforesaid, special county licenses, upon payment by the applicant of one dollar for each county mentioned therein; and the licensee may expose for sale within such county any tin, britannia, glass, earthen, iron, plated or wooden wares of the manufacture of the United States, or any other goods, wares or merchandise manufactured by himself or by his employer and not prohibited in section fourteen, upon paying to the treasurer of such county the amounts following: for Suffolk, Essex, Middlesex and Worcester, each four dollars; for Norfolk, Plymouth, Bristol, Berkshire and Hampden, each three dollars; for Franklin, Hampshire and Barnstable, each two dollars; and for Dukes County and Nantucket, each one dollar. County treasurers shall certify on the face of the license the amount of fees so paid.

County licenses, without fees.
1866, 197.
P. S. 68, § 9.
1883, 118.
1889, 457.
1901, 495.

SECTION 21. Special state or county licenses may be granted as aforesaid to any person seventy years of age or upwards without the payment of any fee therefor, or to any soldier or sailor resident in this commonwealth who served in the army or navy during the war of the rebellion or the war against Spain and who has received an honorable discharge from such service, upon satisfactory evidence of his identity, and, if the applicant did not serve in the war of the rebellion, of his total or partial disability by reason of wounds received or disease contracted in the service of the United States.

Transfer of licenses.
1846, 244, §§ 6, 8.
G. S. 50, § 23.
P. S. 68, § 10.

SECTION 22. A license granted under the provisions of section nineteen may be transferred by the secretary, upon application therefor and upon evidence furnished by the applicant like that required for granting a license. The transferee shall thereafter be liable in all respects as if he were the original licensee, and no person shall thereafter sell under such license except the person named in such transfer.

Records, etc., of licenses.
1846, 244, §§ 6, 9.
G. S. 50, §§ 21, 24.
1864, 151, § 1.
P. S. 68, §§ 11, 13, 18.

SECTION 23. The secretary shall keep a record of all licenses granted by him, with the number of each, the name and residence of the licensee, and the counties, cities and towns, if any, mentioned therein, and of all transfers of licenses. The treasurers of counties, cities and towns shall severally keep records of all licenses upon which the amounts provided in this chapter have been paid to them, with the number of each, the names and residences of the licensees and the amounts received thereon, and all such records shall be open for public inspection. This chapter or a synopsis thereof shall be printed on every license. All licenses granted under the provisions of this chapter shall bear date of the day on which they are issued, and shall continue in force for one year from such date.

Disposition of fees.
1846, 244, § 8.
G. S. 50, § 22.
P. S. 68, § 12.

SECTION 24. All the aforesaid fees paid to the secretary shall be for the use of the commonwealth; and all said fees paid to the treasurer of a county, city or town shall be for the use of such county, city or town.

Posting name of licensee.
1846, 244, § 9.
1851, 298, § 2.
G. S. 50, § 24.
P. S. 68, § 13.
120 Mass. 183.

SECTION 25. Every person licensed as aforesaid to peddle shall post his name, residence and the number of his license in a conspicuous manner upon his parcels or vehicle; and when his license is demanded of him by a mayor, alderman, selectman, city or town treasurer or clerk, constable, police officer or justice of the peace, he shall forthwith exhibit it, and if he neglects or refuses so to do shall be subject to the same penalty as if he had no license.

Effect of licenses on prosecution.
1846, 244, §§ 4, 10.
G. S. 50, § 25.
P. S. 68, § 14.

SECTION 26. No license to go about offering for sale or selling as aforesaid shall defeat or bar a prosecution against the person licensed, if it is proved that he exposed for sale any articles, except such as are permitted in section fifteen, in a county, city or town in which he was not licensed to sell, or in which he had not paid the amount required; but no person so licensed shall be required to make payment to the treasurer of a county, city or town before he is prepared to trade therein. The license of a person convicted

of a violation of any of the provisions of this chapter relating to hawkers and pedlers, except sections fifteen, seventeen and eighteen, shall be void.

SECTION 27. Whoever counterfeits or forges a license, or has a counterfeited or forged license in his possession with intent to utter or use the same as true, knowing it to be false or counterfeit, and whoever attempts to sell under a license which has expired, or is forfeited, or which was not granted and has not been transferred to him, shall forfeit not more than one thousand dollars. Counterfeiting licenses, etc. 1846, 244, § 10. G. S. 50, § 26. 1870, 331. 1878, 216, § 1. P. S. 68, § 15.

SECTION 28. No hawker or pedler, holding an auctioneer's license, shall sell or expose for sale by public auction any goods, wares or merchandise in any city or town other than that from whose authorities such license was obtained; nor in any place in such city or town, not expressly described in said license. Pedlers, etc., licensed as auctioneers. 1852, 115, § 2. G. S. 50, § 28. P. S. 68, § 17.

SECTION 29. Constables and police officers shall, within their respective towns and cities, arrest and prosecute every hawker and pedler whom they may have reason to believe guilty of violating the provisions of this chapter relating to hawkers and pedlers. Prosecutors. 1864, 151, § 3. P. S. 68, § 19.

CHAPTER 66.

OF SHIPPING AND SEAMEN, HARBORS AND HARBOR MASTERS.

SECTIONS 1–7. — Shipping and Seamen.
SECTIONS 8–16. — Vessels Transporting Stone, etc.
SECTIONS 17–28. — Harbors and Harbor Masters.

SHIPPING AND SEAMEN.

SECTION 1. Whoever, not being a pilot or public officer, boards or attempts to board a vessel arriving in the harbor of Boston, Salem, Fall River, New Bedford and Fairhaven or Gloucester, before such vessel has been made fast to the wharf, without the previous permission of the master or person having charge thereof or the previous permission in writing of its owners or agent, or whoever without such leave and without authority of law, boards a vessel in any of said harbors after having been forbidden so to do by a person having charge thereof at the time, or, having boarded such vessel, refuses or neglects to leave it when ordered so to do by the person having charge of it, shall forfeit not more than fifty dollars for each offence. Penalty for boarding vessels without leave. 1857, 139, §§ 1–3. G. S. 52, §§ 22, 23. P. S. 69, §§ 5, 6. 1895, 106, § 1. U. S. Rev. Sts., § 4606. 160 Mass. 312.

SECTION 2. Whoever entices or persuades, or attempts to entice or persuade, or aids, assists or attempts to aid or assist a member of the crew of a vessel arriving in a port or about to sail therefrom to leave or desert said vessel before the expiration of his term of service therein shall forfeit not more than two hundred dollars for each offence and be punished by imprisonment for not less than one nor more than six months. — for enticing crew to desert. 1857, 139, § 4. G. S. 52, § 24. 1874, 76. P. S. 69, § 7.

Penalty for persuading seamen to leave.
1857, 139, § 5.
G. S. 52, § 25.
P. S. 69, § 8.

SECTION 3. Whoever knowingly and wilfully persuades or aids a person who has shipped on a voyage from a port in this commonwealth wilfully to neglect to proceed on such voyage shall forfeit not more than one hundred dollars. 1889, 284.

Seamen exempt from arrest for debt, when.
C. L. 293.
1693–4, 10, § 1.
1859, 235.
G. S. 52, § 26.
P. S. 69, § 9.

SECTION 4. A seaman or mariner who has shipped or entered into a contract for a voyage from a port in this commonwealth shall not be liable to arrest on mesne process on account of a debt to a landlord or boarding-house keeper; nor shall a landlord or boarding-house keeper detain or have a lien upon his wearing apparel or other property, or hinder, obstruct or delay him in the performance of such contract, under a penalty of not more than two hundred dollars.

Penalties, how recovered, etc.
1857, 139, § 6.
G. S. 52, § 27.
P. S. 69, § 10.

SECTION 5. If any of the offences mentioned in the four preceding sections is committed in Boston or Boston harbor, the penalty may be recovered by complaint in the municipal court of the city of Boston; if in Salem or Salem harbor, in the first district court of Essex; if in Fall River or Fall River harbor, in the second district court of Bristol; if in New Bedford or Fairhaven or in the harbor of New Bedford and Fairhaven, in the third district court of Bristol, and if in Gloucester or Gloucester harbor, in the district court of eastern Essex. Whoever commits any such offence may be arrested without a warrant by any officer qualified to serve criminal process in the city in which the offence may be tried, and he shall be forthwith brought before the court.

Harbor limits.
1857, 139, § 7.
G. S. 52, § 28.
P. S. 69, § 11.
1895, 106, § 2.

SECTION 6. For the purposes of the five preceding sections, the outer limits of Boston harbor shall be a line drawn from Harding's Rock to the Outer Graves and from thence to Nahant Head, and said harbor shall include the shores of Chelsea; the outer limits of Salem harbor shall be the chops of said harbor; the harbor of Fall River shall include the waters of Taunton Great River and Mount Hope Bay, from the south line of the town of Freetown to Rhode Island state line, including the shores of Somerset; the harbors of New Bedford and Fairhaven shall be considered one harbor, the outer limits of which shall be the outer limits of Buzzard's Bay; and the outer limits of Gloucester harbor shall be a line drawn from Eastern Point to Norman's Woe.

Relief of shipwrecked seamen.
1886, 179.
1898, 230.

SECTION 7. Cities and towns may provide transportation to destitute shipwrecked seamen from one place to another within this commonwealth, and such other assistance while they are awaiting transportation, not exceeding ten dollars for each person, as the city or town authorities deem necessary. A detailed statement of expenses so incurred shall be rendered to the state board of charity, and, after approval by it, such expenses shall be paid by the commonwealth from the appropriation for the temporary support of state paupers without reference to the legal settlement of such seamen.

VESSELS TRANSPORTING STONE, ETC.

Weighers of vessels. 1800, 75, § 2. 1822, 103, § 2. R. S. 31, § 1. G. S. 52, § 30. P. S. 69, § 13. 11 Met. 59.

SECTION 8. The mayor and aldermen of cities and selectmen of towns in which lighters or other vessels are employed in transporting stones, gravel or sand shall annually, in March or April, appoint one or more weighers of vessels, who shall be sworn.

Vessels to be marked. 1800, 75, § 1. 1822, 103, § 1. R. S. 31, § 2. G. S. 52, § 31. P. S. 69, § 14. 1897, 273.

SECTION 9. Every lighter or other vessel employed in transporting stone sold by weight or gravel or sand shall be marked on the stem and stern post, nearly level with the bend of the vessel, with stationary marks of bar iron, not less than six inches in length and two and a half inches in breadth, fastened with two good and sufficient iron bolts driven through said stem and stern post and riveted into said bar iron, from which all other marks shall take their distance in feet, inches and parts of inches, as the distance may require, from the lower edge of the stationary marks to the lower edge of the other marks; which marks shall be as follows: light water marks, not less than four inches in length and one inch and a half in breadth; and marks for every four tons above said light water marks, legibly cut or cast, in figures of 4 and multiples of four, up to the full capacity of the vessel. Said figures shall express the weight which such vessel is capable of carrying when the lower parts of such figures touch the water; and all the marks shall be of good and sufficient lead or copper, fastened on the stem and stern post of each vessel with sufficient nails not less than one inch in length; or the weight which such lighter or other vessel is capable of carrying shall be indicated by having in the hold of such lighter or vessel, at each end thereof, and as near as practicable to the extremities of the space where the cargo is usually carried, a glass tube, with a stopcock at the bottom which shall be mounted upright upon a scaleboard of metal or wood having marks or figures so arranged thereon as to indicate the weight of the cargo when the water in the tube shall reach the bottom of a figure or mark on the scaleboard.

Duty of weighers. 1822, 103, § 3. R. S. 31, § 3. G. S. 52, § 32. P. S. 69, § 15.

SECTION 10. Each weigher, upon request, shall furnish the requisite marks and nails, and shall cause lighters and other vessels to be weighed and marked in conformity with the provisions of the preceding section. The weigher shall keep in a book provided for the purpose a correct account of the distance of each mark from the stationary marks, in feet, inches and fractions of an inch, and shall give a certificate thereof, expressing the distance, to the master of every such vessel.

Deduction from tonnage, when made. 1822, 103, § 4. R. S. 31, § 4.

SECTION 11. In taking the tonnage of every such vessel, a deduction may be made of one ton for every inch that the light water marks are under water after such vessel has discharged its cargo.

G. S. 52, § 33. P. S. 69, § 16.

Regulations on board during weighing. 1822, 103, § 5. R. S. 31, § 5. G. S. 52, § 34. P. S. 69, § 17.

SECTION 12. Every person on board such vessel, who does not keep within the bounds of the bulkhead and fore chains during the time of taking the marks or while a weigher is employed in weighing or marking, unless in case of absolute necessity, shall forfeit not more than twenty dollars for each offence.

Marks to be annually examined.
1815, 18.
1822, 103, § 7.
R. S. 31, §§ 6, 7.
G. S. 52, §§ 35, 36.
P. S. 69, §§ 18, 19.

SECTION 13. Such vessels shall have their marks examined annually in June by a sworn weigher; and if the marks agree with the former certificates, he shall certify the same accordingly; otherwise he shall keep such certificates in his possession, which shall be admitted in evidence in any prosecution against the master or owner of such vessel under the provisions of this chapter, and such vessel shall be weighed again. For the services required by this section he shall receive one dollar and fifty cents.

Fees of weighers.
1822, 103, §§ 6, 7.
R. S. 31, § 7.
G. S. 52, § 36.
P. S. 69, § 19.

SECTION 14. Each weigher shall receive from the owner or master of a vessel weighed and marked twenty cents for every ton of such vessel, and four dollars for furnishing marks, nails and other necessary articles, fastening the same and giving the certificate.

Penalty for not having lighters weighed.
1800, 75, § 1.
1822, 103, § 5.
R. S. 31, §§ 8, 9.
G. S. 52, §§ 37, 38.
P. S. 69, §§ 20, 21.
11 Met. 59.

SECTION 15. Every owner or master of any such vessel who neglects to have the same weighed, marked and examined according to the provisions of this chapter, or who removes any marks or alters his certificate, and every weigher who places any mark contrary to the provisions of this chapter, or who gives a false certificate, shall forfeit not more than three hundred dollars for each offence.

Ordinances, etc., as to weighing of lighters.
1848, 308.
G. S. 52, § 39.
P. S. 69, § 22.

SECTION 16. Cities and towns may establish ordinances or by-laws regulating the marking and weighing of lighters and other vessels employed in transporting stones, gravel, sand or other ballast; the inspection and weighing of such ballast; and the appointment and compensation of weighers, markers, inspectors and other officers who are necessary to carry such ordinances or by-laws into effect; and may affix penalties for breaches thereof, not exceeding those named in sections twelve and fifteen.

HARBORS AND HARBOR MASTERS.

Stones, etc., not to be deposited in harbor.
C. L. 9; 157, § 3.
1713-14, 10, § 1.
1881, 8, § 6.
P. S. 69, § 23.
1884, 269, § 1.

SECTION 17. Whoever wilfully and without lawful authority or license therefor, deposits in a harbor or other navigable tide waters stones, gravel, mud, ballast, cinders, ashes, dirt or any other substance tending to injure the navigation or to shoal the depth thereof shall be punished by a fine of not more than twenty dollars for each offence.

No line to be passed across channel.
1881, 8, § 7.

SECTION 18. No warp or line shall be passed across a channel or dock so as to obstruct vessels passing along the same. P. S. 69, § 24.

Harbor masters, appointment of.
1881, 8, § 1.
P. S. 69, § 25.
1882, 216, § 1.

SECTION 19. The mayor and aldermen of a city or the selectmen of a town in which a harbor is situated, unless otherwise specially provided, may appoint a harbor master and assistant harbor masters and fix their compensation, which shall be paid by their respective cities or towns. The harbor master shall continue in office until the appointment of his successor, and the assistants, until the appointment of their successors or until their appointments have been revoked.

Duties of assistants.
1882, 216, § 2.

SECTION 20. Such assistants shall be subject to the direction and control of the harbor master of their city or town, and shall

have all the powers given to, and be subject to all the duties required of, harbor masters by general or special laws.

Powers of harbor masters. C. L. 157, § 2. 1881, 8, § 2. P. S. 69, § 26. 1884, 173.

SECTION 21. The master of a vessel within a harbor for which a harbor master is appointed shall anchor his vessel according to the regulations of the harbor master, and shall move to such place as the harbor master directs. The master of a towboat having a vessel in tow and a pilot having a vessel in charge shall allow such vessel to anchor only in such place as the regulations of the harbor master provide for anchorage.

Same subject. 1881, 8, § 3. P. S. 69, § 27.

SECTION 22. The master of a vessel, before unloading lumber in the stream or channel of a harbor having a harbor master, shall obtain from him a permit, designating where such lumber may be rafted.

Same subject. 1881, 8, § 4. P. S. 69, § 28.

SECTION 23. A vessel lying in a harbor or at a wharf or pier in a harbor shall, if so directed by the harbor master, cockbill the lower yards, brace the topsail yards fore and aft and rig in the jib-boom.

Removal of vessel lying in harbor. 1881, 8, § 5. P. S. 69, § 29. 1884, 173.

SECTION 24. A harbor master may, at the expense of the masters or owners thereof, cause the removal of any vessel which lies in his harbor and is not moved when directed by him, and upon the neglect or refusal of such master or owner on demand to pay such expense, he may recover the same from them in an action of contract, to the use of the city or town in which the harbor is situated.

— of vessel lying at wharf. 1881, 8, § 8. P. S. 69, § 30.

SECTION 25. If the master or other person in charge of a vessel occupying a berth at a wharf or pier fails, after notice from the wharfinger thereof or his agent, to remove his vessel from such berth within such time as the harbor master adjudges reasonable, the harbor master shall cause such vessel to be moved to some other berth or anchored in the stream, and may recover the expense of such removal in an action of contract from the master or owners thereof, to the use of the city or town in which the harbor is situated.

Regulation of station of vessels, etc. 1881, 8, § 9. P. S. 69, § 31.

SECTION 26. A harbor master may, in the harbor for which he is appointed, regulate and station all vessels in the streams or channels thereof, and may remove such as he determines are not fairly and actually employed in receiving or discharging their cargoes, to make room for such others as require to be more immediately accommodated for such purposes.

Harbor masters to report violations. 1881, 8, § 11. P. S. 69, § 32. 1883, 260, § 8.

SECTION 27. Harbor masters shall report to the harbor and land commissioners any violation of the provisions of section seventeen or of any law relating to tide water in their respective harbors, and of all shipwrecks in the tide waters of their respective harbors and of any obstructions therein.

Penalty for violating preceding sections. 1881, 8, §§ 10, 12. P. S. 69, §§ 33, 34. 1884, 173.

SECTION 28. Whoever violates any of the provisions of the ten preceding sections or refuses or neglects to obey the lawful orders of a harbor master, or resists him in the execution of his duties, shall be punished by a fine of not more than fifty dollars, and shall be liable in an action of tort to any person suffering damage thereby.

CHAPTER 67.

OF PILOTS AND PILOTAGE.

Commissioners of pilots for Boston.
1753–4, 16.
1808, 37.
1835, 149, §§ 1, 7.
R. S. 32, § 15.
1855, 421.
G. S. 52, § 1.
1862, 176, § 3.
P. S. 70, § 2.
154 Mass. 603.

SECTION 1. The governor, with the advice and consent of the council, shall appoint two commissioners of pilots for the harbor of Boston, for the term of three years unless sooner removed by the governor and council. They shall have experience in maritime and nautical affairs and shall first be recommended by the trustees of the Boston Marine Society, but neither of them shall be one of said trustees. If the said trustees decline or are unable to make such recommendation, the governor, with the advice and consent of the council, shall appoint the said commissioners without it.

Their powers and duties.
1796, 85, § 4.
1826, 104.
1829, 2, § 2.
1835, 149, § 2.
R. S. 32, § 16.
1862, 176, § 4.
P. S. 70, § 3.
104 Mass. 498.

SECTION 2. Said commissioners shall grant commissions as pilots for the harbor of Boston to such persons, approved by the trustees of the Boston Marine Society, as they consider competent. They may upon satisfactory evidence of his misconduct, carelessness or neglect of duty, suspend any such pilot until the next meeting of said trustees has been held, and may thereafter continue such suspension until the close of the next stated meeting of said trustees, but no longer, for the same offence. If said trustees decide at either of said meetings that the commission of such pilot ought to be revoked, the commissioners may revoke it at any time after said decision is rendered and before it is reversed. Said commissioners shall cause the laws and regulations for pilotage within the harbor of Boston to be duly observed and executed, and shall receive, hear and determine complaints by and against pilots for said harbor.

Secretary and his duties.
1835, 149, § 3.
R. S. 32, § 19.
1855, 421, § 4.
G. S. 52, § 11.
1862, 176, § 5.
P. S. 70, § 4.

SECTION 3. Said commissioners shall appoint a secretary, who shall keep an office and attend the same during the day to receive complaints by and against pilots for the harbor of Boston and all notices to such pilots, and who shall keep a fair record of his doings which shall be open at all times for examination.

Accounts of pilots for Boston.
1835, 149, § 6.
R. S. 32, § 20.
1855, 421, § 5.
G. S. 52, § 12.
1862, 176, § 6.
1863, 75.
1871, 351, § 2.
P. S. 70, § 5.

SECTION 4. Once in every three months each pilot for the harbor of Boston shall render to said commissioners an accurate account of all vessels piloted by him and of all money received for pilotage by him or by any person for him, and shall pay to said commissioners four per cent on the amount thereof; and if he makes a false return of money received, he shall pay to them not more than fifty dollars.

Pay of commissioners, etc.
1862, 176, § 6.
P. S. 70, § 6.

SECTION 5. The trustees of the Boston Marine Society shall fix the compensation of the commissioners and their allowance for office rent, clerk hire and incidental expenses, which shall be paid out of the amounts so paid to the commissioners, and the surplus, if any, shall be paid to said society.

Limits of harbor of Boston.
1862, 176, § 7.
P. S. 70, § 7.
9 Met. 371.
119 Mass. 185.

SECTION 6. The harbor of Boston, for the purposes of this chapter, shall include all places or landings accessible to vessels from sea within the limits of Nahant Rock on the north and Point Allerton on the south.

SECTION 7. The governor, with the advice and consent of the council, may appoint one or more pilots for the ports of Salem and Beverly, respectively, who shall first be recommended by the master of the Marine Society in Salem and by the president of the Salem East India Marine Society, and who may be removed by the governor, with the advice and consent of the council, if the master and president of the societies aforesaid certify that they are incapable of discharging the duties of said office or otherwise unsuitable to be continued therein, or that the public interest requires their removal.

Pilots for Salem and Beverly.
1783, 13, § 1.
1813, 164.
1826, 114.
R. S. 32, §§ 25, 26.
1862, 176, §§ 8, 9.
1878, 39, § 2.
P. S. 70, § 8.

SECTION 8. The governor, with the advice and consent of the council, may appoint one or more pilots for the port of Newburyport, who shall first obtain from the Marine Society of Newburyport a certificate, signed by its clerk, stating that in the opinion of said society they are capable and suitable to be so appointed, and who may be removed by the governor and council if said society certifies in like manner that they are incapable of discharging the duties of said office or otherwise unsuitable to be continued therein, or that the public interest requires their removal.

— for Newburyport.
1783, 13, § 1.
1785, 29, § 3.
R. S. 32, § 29.
1862, 176, § 10.
P. S. 70, § 9.

SECTION 9. The governor, with the advice and consent of the council, may appoint a pilot for the harbor of Cohasset, who shall hold his office during the pleasure of, and may at any time be removed or suspended by, the governor and council.

— for Cohasset.
1887, 298, § 1.

SECTION 10. The governor, with the advice and consent of the council, shall appoint three port wardens for the port of Marblehead, for the ports of Gloucester and Rockport, and for Taunton River, respectively, five port wardens of the ports upon Buzzard's Bay and the island of Martha's Vineyard, and two port wardens of Provincetown, who shall hold their offices during the pleasure of the governor and council. Two of the port wardens upon Buzzard's Bay and the island of Martha's Vineyard shall reside in New Bedford or Fairhaven, two in Dukes County and one in Wareham; one of the port wardens for Taunton River shall reside in Fall River, one in Somerset and one in Taunton. The port wardens of Marblehead, of Gloucester and Rockport, and of Taunton River, shall recommend to the governor suitable persons to be pilots for the ports of Marblehead, of Gloucester, Rockport and Manchester, and for Taunton River and the ports connected with the same, respectively; the port wardens of the ports upon Buzzard's Bay and the island of Martha's Vineyard shall recommend suitable persons to be pilots for any or all of said ports within their jurisdiction. The governor, with the advice and consent of the council, may appoint the persons so recommended as pilots. The commissioners of pilots for the harbor of Boston and the port wardens of Provincetown shall from time to time recommend suitable persons, not exceeding six, to be bay and harbor pilots as defined in the regulations for the harbor of Provincetown.

Port wardens and pilots.
1826, 88, § 1.
R. S. 32, § 33.
1862, 176, §§ 11–14.
1878, 39, § 1.
P. S. 70, §§ 10–14.
1890, 300.

SECTION 11. In all ports and places not mentioned in this chapter, for which pilots have been commissioned, the governor, with the advice and consent of the council, may appoint pilots, who

Pilots for other ports and places.
1783, 13, § 9.
R. S. 32, § 5.

1862, 176, § 15. P. S. 70, § 15.

shall hold their commissions during the pleasure of, and may at any time be suspended or removed by, the governor and council.

Additional pilots. 1882, 174.

SECTION 12. The governor, with the advice and consent of the council, may, for the ports of this commonwealth other than the port of Boston, appoint pilots in addition to those otherwise authorized; but such appointment shall not be made for any port where the recommendation of any society or persons is required by law unless upon a certificate of qualification from such society or persons, or unless it or they, upon application, fail for three months to certify their recommendation or disapproval of the applicant. Such society or persons may certify to the governor their judgment as to the need of additional appointments.

Suspension and removal of pilots. 1862, 176, § 16. P. S. 70, § 16. 1882, 174.

SECTION 13. Said society or persons, except in the port of Boston, may, for misconduct, carelessness or neglect of duty, suspend pilots whom they are authorized to recommend, but not for more than sixty days, unless with the approval of the governor and council. When it or they, respectively, certify to the governor that a pilot within their jurisdiction is incapable of performing the duties of his office, or otherwise unsuitable to be continued therein, or that the public interest requires his removal, he may be removed by the governor with the consent of the council.

Pilots to give bonds. 1783, 13, § 2. 1785, 29, § 4. 1796, 85, § 5. 1826, 88, § 4. 1835, 149, § 5. R. S. 32, §§ 6, 17, 30, 35. 1855, 421, § 3. G. S. 52, § 8. 1862, 176, § 19; 176, reg. 8. P. S. 70, § 17. 136 Mass. 499.

SECTION 14. No person shall receive a commission or exercise the office of pilot until he has given to the treasurer and receiver general a bond with two sureties in the penal sum of one thousand dollars for the faithful performance of the duties of his office and for the payment of all damages which may accrue from his negligence, unskilfulness or unfaithfulness. The sureties on the bonds of pilots for the harbor of Boston shall be approved by the commissioners of pilots for said harbor; upon the bonds of pilots for the other ports and places mentioned in this chapter, by the society or persons recommending such pilots; and upon the bonds of all other pilots, by the governor and council.

Discharge of surety on bond of pilot. 1835, 149, § 5. R. S. 32, § 18. 1844, 168. G. S. 52, § 9. 1862, 176, § 20. P. S. 70, § 18.

SECTION 15. A surety upon the bond of a pilot who desires to be discharged from his liability thereon shall give notice thereof either to the governor and council or to the commissioners or to the society or persons authorized to approve the sureties upon said bond, as the case may be, and shall also give notice in writing to such pilot, which may be served by a constable of any town in which said pilot may be, and shall, with the return of the constable thereon, be filed with the treasurer and receiver general, and at the expiration of thirty days therefrom, the liability of such surety for the subsequent acts of said pilot shall cease. If a pilot, being so notified, fails to furnish a new bond before the expiration of said thirty days, his commission shall be void.

Pilots to give new bond, when. 1862, 176, § 21; 176, reg. 2. P. S. 70, §§ 19, 20. [30 U. S. Sts., 544.]

SECTION 16. A pilot shall, in case of the decease, insolvency or bankruptcy of a surety upon his bond, give notice thereof to the commissioners of pilots for the harbor of Boston, if such pilot is a pilot for said harbor, or to the persons or society who recommended his appointment, if any; otherwise to the governor and council,

and in such case, or if his bond appears to the persons authorized to approve the sureties thereon to be insufficient, a new bond shall be required from him.

SECTION 17. A pilot shall have a lien for his pilotage fees upon the hull and appurtenances of every vessel liable to him therefor under the provisions of this chapter for sixty days after the completion of his services; but the lien of a pilot for the harbor of Boston shall not attach until it has been approved by the pilot commissioners. 131 Mass. 546. [1 Op. A. G. 180.]

Lien of pilots for their fees. 1796, 85, § 12. G. S. 52, § 7. 1862, 176, reg. 10. 1871, 351, § 3. P. S. 70, § 21.

SECTION 18. A pilot shall be liable for all damages which may accrue from his negligence, unskilfulness or unfaithfulness. 1783, 13, § 8. 1796, 85, § 10. R. S. 32, § 11. 1862, 176, reg. 8. P. S. 70, § 22. 8 Pick. 23.

Liability of pilots for negligence, etc.

SECTION 19. A pilot shall, if so required, exhibit his commission to the master of any vessel of which he may take charge. 1783, 13, § 2. 1796, 85, § 5. 1862, 176, reg. 6. P. S. 70, § 23. 5 Met. 412.

Pilots to exhibit their commissions.

SECTION 20. A pilot who takes charge of a vessel drawing more water than his commission authorizes shall be suspended or removed. 1862, 176, reg. 7. P. S. 70, § 24.

— not to take charge of certain vessels.

SECTION 21. Pilots shall first board such vessels, irrespective of size, as may have signals set for a pilot. If there are no such signals to be seen, pilots shall offer their services to the first vessel which they can board; and if a vessel liable to pilotage refuses to take a pilot, the pilot offering his services shall inform the officers of such vessel that she will be held to pay the regular fees for pilotage, whether such services are accepted or not.

— to board first vessel showing signal. 1862, 176, reg. 5. P. S. 70, § 25. 101 Mass. 267. 131 Mass. 546.

SECTION 22. Every inward bound vessel shall, except as provided in sections twenty-five and twenty-eight, receive the first pilot who holds a commission for her port of destination who offers his services, and such vessels shall, except as provided in sections twenty-six and twenty-seven, be held to pay to such pilot the regular fees for pilotage, whether his services are accepted or not. G. S. 52, § 6. 1862, 176, reg. 4. P. S. 70, § 26. 5 Met. 412. 1 Gray, 257. 103 Mass. 237. 120 Mass. 3. [1 Op. A. G. 180.]

Inward vessel to take first pilot offering. 1783, 13, §§ 2, 6, 10. 1796, 85, § 8. 1819, 45. R. S. 32, §§ 7, 12. 1841, 45, § 1. 1847, 279, § 4.

SECTION 23. Every outward bound vessel, except whaling vessels outward bound from the port of New Bedford, which is liable to pilotage if inward bound, shall, whether the services of a pilot are accepted or not, be held to pay the regular fees to the pilot who brought her into port or to some other pilot of the same boat, if he offers his services before she gets under way; or if such pilot does not so offer, or if such vessel was not piloted into port, then to the pilot who first offers his services.

Outward vessel to pay fees to inward pilot. 1862, 176, § 17; 176, reg. 4. P. S. 70, § 27. 1884, 213. 135 Mass. 175.

SECTION 24. No vessel shall be liable to pay pilotage fees in or out of any port other than her ports of departure and destination, unless the aid of a pilot is requested, in which case the pilot shall be bound to act as such, and shall be entitled to the regular compensation therefor.

Ports where pilotage is compulsory. 1862, 176, reg. 3. P. S. 70, § 28.

What vessels pilots are to take charge of.
1783, 13, §§ 2, 6, 10.
R. S. 32, §§ 7, 12.
1841, 45, § 1.
1847, 279, § 1.
G. S. 52, § 5.
1862, 176, reg. 17.
P. S. 70, § 29.

SECTION 25. Every pilot is authorized and directed to take charge, within the limits of his commission, of any vessels, not exempt from compulsory pilotage by section twenty-eight, and of vessels not bound from one port to another within the commonwealth, unless they are in the completion of a voyage from a port out of the commonwealth.

Certain vessels liable only for half fees.
1857, 221, § 1.
G. S. 52, § 15.
1862, 176, reg. 18.
P. S. 70, § 30.
1884, 252, § 2.

SECTION 26. Vessels of not more than two hundred tons burden, or vessels under three hundred and fifty tons register bound into the port of Boston, which decline the services of a pilot, shall, if otherwise liable under the provisions of this chapter to the payment of pilotage fees, be liable to one-half of the regular fees; but if they request and receive such services, they shall pay the regular rates.

Fees of vessel taking steam.
1857, 221, § 3.
G. S. 52, § 17.
1862, 176, reg. 18.
P. S. 70, § 31.

SECTION 27. If steam towage is taken by the desire of the master, the vessel shall pay full pilotage fees; but if taken by direction of the pilot in charge, such vessel shall pay to the pilot but seventy-five per cent of the regular fees.

Vessels exempt from compulsory pilotage.
1783, 13, §§ 7, 10.
1796, 85, §§ 5, 9.
1819, 45.
1826, 88, § 8.
1829, 2, §§ 1, 4.
R. S. 32, §§ 7, 24, 41.
1841, 45, § 1.
1847, 279, § 4.
G. S. 52, § 5.
1862, 176, regs. 15, 17, 18.
1869, 236, § 2.
1873, 284, § 1.
P. S. 70, § 32.
1884, 252, §§ 1, 3–5.
14 Mass. 17.
1 Gray, 257.
127 Mass. 98.

SECTION 28. Steam vessels regulated by the laws of the United States and carrying a pilot commissioned by United States commissioners, vessels regularly employed in the coasting trade, fishing vessels other than whalers, vessels of less than seven feet draught of water, vessels bound into the harbor of Boston and otherwise liable to pilotage, which arrive within a line drawn from Harding's Ledge to the Graves and thence to Nahant Head before the services of a pilot have been offered, and vessels under three hundred and fifty tons register bound out of the port of Boston, shall be exempt from the compulsory payment of pilotage, but if any such vessel requests the aid of a pilot, he shall serve the same in like manner as vessels which are not exempt, and shall be entitled to the regular compensation therefor.

135 Mass. 347. See U. S. Rev. Sts., §§ 4400, 4444. 118 U. S. 90.

National vessels.
1862, 176, reg. 16.

SECTION 29. National vessels which employ a pilot shall pay the same rates as vessels in the merchant service.

1871, 351, § 3. P. S. 70, § 33. 7 Mass. 306.

Period for winter and for summer rates.
1862, 176, reg. 9.
1873, 284, § 2.
P. S. 70, § 34.
1887, 204; 298, § 2.

SECTION 30. The period for winter rates of pilotage, if such rates are established, shall be from the first day of November to the thirtieth day of April, inclusive, and for summer rates, from the first day of May to the thirty-first day of October, inclusive. In the harbors of Boston, Cohasset, Salem and Beverly, the rates shall be the same during the whole year; and in the harbors of Cohasset, Salem and Beverly, the rates shall be the same as those in the harbor of Boston.

Additional fees in case of detention.
1862, 176, reg. 13.
P. S. 70, § 35.

SECTION 31. If a vessel is anchored for twelve hours or more under any regulation relative to quarantine or to alien passengers, the pilot in charge, upon piloting such vessel to her port of destination, shall be entitled to an addition of twenty-five per cent to the regular fees.

SECTION 32. If a pilot, without fault or negligence of his own or of his associates, is unable to leave the vessel under his charge and is carried to sea, he shall be entitled to two dollars for each day on which he is necessarily detained from home.

Pay of pilot when carried to sea.
1862, 176, reg. 14.
P. S. 70, § 36.

SECTION 33. A pilot who fails to anchor a vessel carrying alien passengers or a vessel subject to quarantine at the place assigned by the proper authorities shall be suspended or removed.

1862, 176, reg. 11. P. S. 70, § 37.

Anchoring of vessels with alien passengers.

SECTION 34. All controversies between pilots relative to their mutual rights, privileges and duties shall be referred to and settled by three master pilots, who shall be chosen by the parties for the purpose.

Controversies between pilots.
1862, 176, reg. 12.
P. S. 70, § 38.

SECTION 35. No person unless he holds a commission as a pilot shall, if a commissioned pilot offers his services or can be obtained within a reasonable time, assume or continue to act as pilot in the charge or conduct of any vessel within the waters of this commonwealth, unless he is actually employed on such vessel for the voyage. Whoever violates the provisions of this section shall be punished by a fine of not less than twenty nor more than fifty dollars for each offence. 1884, 252, § 6. 5 Met. 412.

Persons not pilots forbidden to act as such.
1796, 85, §§ 2, 3.
1829, 2, § 1.
R. S. 32, § 23.
1855, 421, § 8.
1857, 221, § 4.
G. S. 52, § 10.
1862, 176, reg. 1.
P. S. 70, § 39.

CHAPTER 68.

OF AGENTS, CONSIGNEES AND FACTORS.

SECTION 1. A factor or other agent who is intrusted with the possession of merchandise or of a bill of lading consigning merchandise to him with authority to sell the same shall be deemed the true owner of such merchandise, so far as to give validity to any bona fide contract of sale made by him.

Sales by consignees, when.
1845, 193, § 2.
G. S. 54, § 2.
P. S. 71, § 1.
15 Gray, 364.
115 Mass. 224.
134 Mass. 156.

SECTION 2. A shipper who is in lawful possession of merchandise at the time of shipment and in whose name it is shipped for sale shall be deemed the true owner thereof so far as to entitle the consignee to a lien thereon for money advanced or for securities given to the shipper for or on account of such consignment, unless the consignee, at or before the time when he made the advances or gave the securities, had notice by the bill of lading or otherwise that the shipper was not the actual and bona fide owner.

Lien of consignee.
1845, 193, § 1.
G. S. 54, § 1.
P. S. 71, § 2.

SECTION 3. If a person who is intrusted with merchandise has authority to sell or consign the same, a consignee to whom he consigns it shall have a lien thereon for any money or merchandise advanced or for any negotiable security given by him on the faith of such consignment, to or for the use of the person in whose name the consignment or delivery was made, and for any money, negotiable security or merchandise received for the use of such

Same subject.
1849, 216, §§ 1, 2.
G. S. 54, § 3.
P. S. 71, § 3.
134 Mass. 156.

consignee by the person in whose name the consignment or delivery was made, if such consignee had, at the time of such advance or receipt, probable cause to believe that the person in whose name the merchandise was shipped, transmitted or delivered was the actual owner thereof or had a legal interest therein to the amount of said lien.

Lien for advances to consignee. 1849, 216, § 3. G. S. 54, § 4. P. S. 71, § 4. 3 Allen, 491. 5 Allen, 419. 134 Mass. 156. 152 Mass. 189.

SECTION 4. If a consignee or factor, having possession of merchandise with authority to sell the same or having with such authority possession of a bill of lading, permit, certificate or order for the delivery of merchandise, deposits or pledges such merchandise or a part thereof or such document with any other person as a security for money or merchandise advanced or for a negotiable instrument given by him upon the credit thereof, such other person, if he makes such loan, advance or exchange in good faith and with probable cause to believe that the agent making the deposit or pledge had authority so to do and was not acting fraudulently against the owner of such merchandise, shall, notwithstanding he has notice of such agency, acquire the same interest in and authority over such merchandise and documents as he would have acquired if the agent had been the actual owner thereof.

Pledge by consignee to secure antecedent debt. 1849, 216, § 4. G. S. 54, § 5. P. S. 71, § 5.

SECTION 5. If such merchandise or document is accepted in deposit or pledge for an antecedent debt due from such consignee or factor, the person receiving the same shall thereby acquire no other or further right or interest in or authority over or lien upon the same than the consignee or factor might have enforced against the actual owner.

Effect of three preceding sections. 1849, 216, § 5. G. S. 54, § 6. P. S. 71, § 6.

SECTION 6. The provisions of the three preceding sections shall not affect the lien of a consignee or factor for the expenses and charges attending the shipment, transportation and care of merchandise intrusted to him; nor prevent the actual owner of merchandise from recovering it, previous to any pledge thereof, from the consignee or factor or from his assignee in case of his insolvency; nor prevent such owner from recovering any merchandise or document so deposited or pledged, upon tender of the money and restoration of the negotiable security or property so advanced to such consignee or factor, and upon tender of such further amount of money and restoration of such negotiable instrument or property as may have been advanced or given by the consignee or factor to the owner, or upon tender of an amount of money equal to the amount or value of such merchandise; nor prevent him from recovering from a person with whom such merchandise has been so deposited or pledged any balance of money remaining in his hands as the proceeds of the sales thereof, after deducting the amount or value of the money or negotiable security so advanced thereon.

CHAPTER 69.

OF PUBLIC WAREHOUSES.

Public warehousemen, how licensed.
1860, 206, §§ 1, 11.
1879, 104.
1880, 63.
P. S. 72, §§ 1, 2, 13.
1885, 167.

SECTION 1. The governor, with the advice and consent of the council, may license in any city or town suitable persons, or corporations established under the laws of the commonwealth and having their places of business within the commonwealth, to be public warehousemen. Such warehousemen may keep and maintain public warehouses for the storage of goods, wares and merchandise. They shall give bond to the treasurer and receiver general for the faithful performance of their duties in an amount and with sureties to be approved by the governor, and may appoint one or more deputies, for whose acts they shall be responsible. A railroad corporation which is licensed as a public warehouseman shall not be required as such to receive any property except such as has been or is forthwith to be transported over its road or to give sureties on its bond.

Action on bond of.
1860, 206, § 2.
1873, 210, § 1.
P. S. 72, § 3.

SECTION 2. Whoever is injured by the failure of a public licensed warehouseman to perform his duty or by his violation of any of the provisions of this chapter may bring an action for his own benefit, in the name of the commonwealth, on the bond of such warehouseman. The writ shall be indorsed by the person in whose behalf such action is brought, or by some other person satisfactory to the court; and the indorser shall be liable to the defendant for any costs which he may recover in such action, but the commonwealth shall not be liable for any costs.

Warehouseman to insure property, when.
1860, 206, § 3.
1879, 104.
P. S. 72, § 4.

SECTION 3. Such warehouseman shall, upon request in writing by a party placing property with him on storage, cause such property to be insured for whom it may concern. A railroad corporation which is such warehouseman may itself be the insurer.

Form of receipt.
1860, 206, § 3.
1878, 93, §§ 2, 5.
P. S. 72, § 5.
1886, 258.

SECTION 4. Every such warehouseman shall give to each person who deposits property with him for storage a receipt therefor, which shall be negotiable in form, shall describe the property, shall state distinctly the brands or distinguishing marks thereon, the rate of charges for storing it and the amount and rate of insurance thereon, and, if it is grain, the quantity and inspected grade thereof; or, upon request, he shall give a similar receipt, non-negotiable in form, which shall have the words "*not negotiable*" plainly written, printed or stamped upon the face thereof.

Transfer of title of goods stored.
1860, 206, § 4.
1873, 210, § 2.
1878, 93, § 1.
P. S. 72, § 6.
1886, 258.
135 Mass. 1.

SECTION 5. The title to property which is stored in a public warehouse under a warehouseman's negotiable receipt therefor shall pass to a purchaser or pledgee by the indorsement and delivery to him of such receipt signed by the person to whom the receipt was originally given or by an indorsee thereof; and if so stored under a warehouseman's non-negotiable receipt, shall pass by assignment of such receipt when recorded on the books of the warehouseman issuing it.

Special provision for grain, etc. 1878, 93, § 3. P. S. 72, § 7.

SECTION 6. If grain or other property which is stored in a public warehouse is so mixed or intermingled that the identity of different lots or parcels cannot be accurately preserved, the warehouseman's receipt shall give a valid title to so much of such grain or property as is designated therein, without actual separation or identification.

Warehouseman to keep books. 1860, 206, § 6. 1878, 93, § 5. 1879, 104. P. S. 72, § 8. 1887, 277, § 3. 1895, 348, § 1.

SECTION 7. Such warehouseman shall keep books in which shall be entered an account of all his transactions relative to the storing and insuring of goods, wares and merchandise, to the issuing of receipts therefor and to the disposition of proceeds of sales thereof under the provisions of this chapter. Such books shall be open to the inspection of any person actually interested in the property to which the entries relate.

Notice of licensees, etc., to be published. 1860, 206, § 7. P. S. 72, § 9.

SECTION 8. The secretary of the commonwealth shall, at the expense of each warehouseman, give notice of his license and qualification, of the amount of the bond given by him and also of the discontinuance of his license by publishing the same for not less than ten days in one or more newspapers, if any, published in the county or town in which the warehouse is located; otherwise, in one or more newspapers published in the city of Boston.

Disposition of perishable property. 1895, 348, §§ 3, 4.

SECTION 9. If a public warehouseman has in his possession, in storage, upon a non-negotiable receipt, property of a perishable nature, or which, by keeping, will deteriorate greatly in value, or, by its odor, leakage, inflammability or explosive nature, will be liable to injure other property, or of a value which will probably be insufficient to pay the storage charges thereof, he may, after notice to the person in whose name the property is stored to remove said property and to pay the storage and other proper charges thereon, and the refusal or neglect of such person so to do, sell the same at public or private sale without advertising. If, on reasonable inquiry, such person cannot be found, the sale may be made without notice. The proceeds of the sale, after deducting the expenses thereof and the storage and other proper charges, shall be paid or credited to the person in whose name the property was stored, or if he cannot be found, to the treasurer and receiver general, who shall pay it over to the owner thereof upon proof of his title thereto within one year after its receipt by the treasurer. If such warehouseman has made a reasonable effort to sell perishable or worthless property and has been unable so to do, he may dispose of it in any lawful manner, and shall not be liable for such disposition.

Liability of depositor for charges. 1895, 348, § 5.

SECTION 10. If, from the sale or other disposition authorized by the preceding section, no proceeds are realized or the proceeds are insufficient to pay the expenses of sale and the storage and other proper charges, the person in whose name said property was stored shall be liable to such warehouseman for all proper charges against such property or for such amount as equals the difference between the charges due thereon and the proceeds of such sale or disposition.

Sales to pay overdue charges. 1887, 277, § 1.

SECTION 11. A public warehouseman who has in storage any property for which a storage charge is at least one year overdue, may sell the same by public auction after notice in writing to the

person in whose name it is stored that such property will be sold at a time and place specified in the notice unless the amount due for storage, the advances made thereon and the expenses of advertising and sale are paid before the sale is made. From the proceeds, he may retain said storage charges, advances made and expenses of advertising and sale.

Service of notice of sale. 1887, 277, § 2. 1895, 348, § 6.

SECTION 12. The notice required by the preceding section shall be served by an officer authorized to serve civil process or by some other person by delivering it to the person in whose name such property is stored at the time of such service or by leaving it at his usual place of abode, if within the commonwealth, at least sixty days before the time of such sale; in the event that the party storing such goods shall have parted with the same, and the purchaser shall have notified the warehouseman, with his address, such notice shall be given to such person in lieu of the person storing the goods. A return of service of such notice shall be made under oath. If the person in whose name such property is stored cannot, with reasonable diligence, be found within the commonwealth, such notice shall be published once in each of three successive weeks in a newspaper published in the city or town in which the warehouse is located, if any; otherwise, in one of the principal newspapers published in the county in which such city or town is located, the last publication to be at least thirty days before the time of sale.

Disposition of proceeds of sales. 1887, 277, § 3.

SECTION 13. Such warehouseman shall, on demand, pay over the surplus of the proceeds of a sale authorized by section eleven to the person entitled thereto, but if it is not claimed within six months after such sale, he shall pay such surplus to the treasurer and receiver general and shall, at the same time, file with him an affidavit stating the name and residence of the person whose property has been sold, the articles sold and the prices obtained therefor, the name and residence of the auctioneer and a copy of the notice served or published with the return thereof. The copy of notice and return so filed shall be admitted as evidence of the giving of the notice. The treasurer and receiver general shall pay it over to the owner thereof upon proof of his title thereto within five years after its receipt by the treasurer.

Penalty for selling, etc., property deposited. 1860, 206, § 8. P. S. 72, § 10. 1895, 348, § 2.

SECTION 14. Whoever, with intent to injure or defraud, unlawfully sells, pledges, lends or in any other way disposes of, or permits or is a party to the unlawful selling, pledging, lending or other disposition of, any property stored in a public warehouse, without the authority of the person in whose name the same is stored, shall be punished by a fine of not more than five thousand dollars and by imprisonment in the state prison for not more than three years.

— for forging, etc., warehouse receipt, etc. 1860, 206, §§ 9, 10. P. S. 72, §§ 11, 12.

SECTION 15. Whoever falsely makes, utters, forges or counterfeits, or whoever permits or is a party to the false making, uttering, forging or counterfeiting of, a warehouse receipt, certificate or other instrument, or of the signature of a warehouseman or of an indorser or other person to an instrument used to pass or to give title to property stored in a public warehouse, shall be punished by a fine

of not more than five thousand dollars and by imprisonment in the state prison for not more than three years.

Penalty for disposing of receipt after attachment, etc. 1860, 206, § 12. P. S. 72, § 14.

SECTION 16. Whoever, knowing that his interest in the property described in a warehouseman's receipt has been attached, indorses, assigns or otherwise disposes of such receipt without disclosing such attachment to the person to whom such receipt is indorsed, assigned or disposed of shall be punished by a fine of not more than five thousand dollars and by imprisonment in the state prison for not more than three years, or by imprisonment in jail for not more than one year.

CHAPTER 70.

OF COMMON CARRIERS AND EXPRESS COMPANIES.

Discrimination by carriers forbidden. 1869, 252, § 1. P. S. 73, § 1.

SECTION 1. Every common carrier of merchandise or other property shall receive, transport and forward all property offered for such purposes by other such carriers as promptly, faithfully and impartially, at as low rates of charge, and in a manner and on terms and conditions as favorable to the carrier offering such property, as he on the same day and at the same place receives, forwards and transports, in the ordinary course of business, property of a like description offered by persons other than such carriers. Such carrier shall not discriminate against any particular person or corporation or subject him or it to any undue or unreasonable prejudice or disadvantage. The supreme judicial court or the superior court shall have jurisdiction in equity to enforce the provisions of this section.

Penalty. 1869, 252, § 2. P. S. 73, § 2.

SECTION 2. Every such carrier who wilfully neglects or refuses to comply with the provisions of the preceding section shall forfeit for every offence not less than fifty nor more than five hundred dollars, to the person offering the property for transportation.

General agent for foreign expresses. 1871, 371, § 1. P. S. 73, § 3. 1884, 330.

SECTION 3. Every association of persons who are not inhabitants of this commonwealth which does an express business herein shall in writing appoint a person, who is a citizen and a resident thereof, to be a general agent, upon whom all lawful processes against such persons may be served with like effect as if served on said persons; and said writing or power of attorney shall contain an agreement on the part of the persons making the same that the service of any lawful process against it or them on said general agent shall be of the same legal force and validity as such service on said persons or any of them. The power of attorney shall be filed in the office of the secretary of the commonwealth, and copies certified by him shall be taken as sufficient evidence and proof thereof. Such agency shall be continued so long as such express business is done in this commonwealth, and the power of attorney shall not be revoked until a similar power is given to another person and filed as aforesaid.

—to give bond. 1871, 371, § 2. P. S. 73, § 4.

SECTION 4. Such general agent shall give bond to the treasurer and receiver general, with one or more sureties to be approved by

him, in the sum of two thousand dollars, conditioned that he will accept service of all lawful process against his principal.

Penalty on agent of delinquent company. 1871, 371, § 3. P. S. 73, § 5.

SECTION 5. No person shall act for more than thirty days as such general agent unless the provisions of the two preceding sections have been complied with; and whoever so acts without such compliance shall forfeit not more than five hundred dollars for each offence.

Remedy for negligence of common carrier. 1840, 80. G. S. 160, § 34. 1881, 199, §§ 3, 5, 6. P. S. 73, § 6. 135 Mass. 448. 144 Mass. 425.

SECTION 6. If the proprietor of a steamboat or stage coach or a common carrier of passengers, except a railroad corporation or street railway company, by reason of his or its negligence, or by reason of the unfitness or gross negligence or carelessness of his or its servants or agents, causes the death of a passenger, he or it shall be liable in damages in the sum of not less than five hundred nor more than five thousand dollars which shall be assessed with reference to the degree of culpability of the proprietor or common carrier liable, or of his or its servants or agents, and shall be recovered in an action of tort, commenced within one year after the injury which caused the death, by the executor or administrator of the deceased, one-half to the use of the widow and one-half to the use of the children of the deceased; or, if there are no children, the whole to the use of the widow; or, if there is no widow, the whole to the use of the next of kin.

Protection of business of carriers. 1895, 481.

SECTION 7. Whoever, with intent to defraud or injure in his business a person licensed by any city or town as a carrier of goods for hire, takes from the order box of such carrier or effaces or destroys any order to or direction for such carrier to call for and receive goods to be transported by such carrier, or appropriates any such order or direction or makes use of the information derived therefrom for the purpose of executing the same, or for the purpose of transporting any goods or receiving the hire therefor, shall be punished by a fine of not more than twenty-five dollars.

Provisions applicable. 1894, 469, § 4.

SECTION 8. The provisions of sections two hundred and thirty-three, two hundred and forty-one and two hundred and sixty-nine of chapter one hundred and eleven shall apply to steamboat lines within the commonwealth and to persons who are engaged or who desire to engage in the express business thereon.

CHAPTER 71.

OF LIMITED PARTNERSHIPS.

Limited partnerships. 1835, 48, § 1. R. S. 34, § 1. G. S. 55, § 1.

SECTION 1. A limited partnership may be formed by two or more persons for the transaction of any lawful business except the business of insurance. 1873, 320, § 6. 1875, 152. P. S. 75, § 1. 5 Allen, 91, 530.

General and special partners. 1835, 48, § 2. R. S. 34, § 2. G. S. 55, § 2. P. S. 75, § 2. 5 Allen, 91. 101 Mass. 502. 103 Mass. 17.

SECTION 2. Such partnership shall consist of one or more general partners who shall be jointly and severally liable for all the debts of the partnership, and of one or more special partners who shall each contribute to the common stock in actual cash payment a specific amount as capital and who shall not be personally liable for the debts of the partnership except as hereinafter provided.

Names of general partners only to be used.
1835, 48, § 7.
R. S. 34, § 7.
1845, 78.
1850, 91, §§ 1, 2.
1858, 143.
G. S. 55, § 7.
1873, 320, § 4.
P. S. 75, § 3.
1887, 248, § 1.
168 Mass. 370.

SECTION 3. The business of such partnership shall be conducted under a firm name in which the names of the general partners only shall be inserted, without the addition of the word "company" or of any other general term; or, with the consent of the members of a former firm or their legal representatives to whose business such a partnership lawfully succeeds, it may be conducted under the name of such former firm. The names of not more than three general partners shall be required to be inserted in such firm name. A special partner who consents or is privy to the use of his name in the firm name shall be liable as a general partner; but if his surname is the same as that of a general partner whose surname is used in the firm name, or if it appears in the name of a former firm adopted as aforesaid by such partnership, he shall not be so liable.

Certificate of partnership to be made.
1835, 48, § 3.
R. S. 34, § 3.
G. S. 55, §§ 3, 4.
1873, 320, § 1.
P. S. 75, § 4.
5 Allen, 91, 539.
141 Mass. 298.

SECTION 4. The members of such partnership shall make and severally sign a certificate, which shall contain the firm name under which the business of the partnership is to be conducted, the names and residences of all the partners, distinguishing who are general and who special partners, the amount of capital which each special partner has contributed to the common stock, the general nature of the business to be transacted, the time when the partnership is to commence and the time when it is to terminate. If a false statement is made in such certificate, all the partners shall be liable as general partners.

—to be acknowledged and filed.
1835, 48, § 4.
R. S. 34, § 4.
G. S. 55, § 4.
1873, 320, § 1.
1877, 35.
P. S. 75, § 5.
1896, 523, § 1.

SECTION 5. Such certificate shall be acknowledged by all the partners before a justice of the peace or, if a partner resides out of the commonwealth, before a United States consul, notary public or other magistrate authorized to take acknowledgments of deeds of land in this commonwealth, and shall be filed in the office of the secretary of the commonwealth and recorded in said office in a book to be kept for that purpose which shall be open to public inspection. The fee for filing such certificate shall be one dollar.

—copy of, to be published.
1835, 48, § 5.
R. S. 34, § 5.
G. S. 55, § 5.
1873, 320, § 2.
P. S. 75, § 6.
1898, 485.

SECTION 6. A copy of such certificate shall, immediately after such filing, be published once in each of six successive weeks in a newspaper, if any, published in the county in which the principal place of business of the partnership is situated; otherwise, in a newspaper published in the city of Boston. Within sixty days after the filing of said certificate, an affidavit of one of said partners stating the newspaper in which and the dates upon which the copy of said certificate was published shall be filed in the office of the secretary of the commonwealth and recorded as provided in the preceding section.

Certificate of renewal.
1835, 48, § 6.
R. S. 34, § 6.
G. S. 55, § 6.
1873, 320, § 3.
P. S. 75, § 7.
1887, 248, § 3.
176 Mass. 110.

SECTION 7. Upon the renewal or extension of a limited partnership beyond the time originally limited for its termination, the capital contributed by the special partners shall equal or exceed the aggregate capital originally contributed by them, and a certificate of such renewal or extension stating the amount of capital contributed by each of the special partners at such renewal or extension and that the whole amount thereof equals or exceeds the amount originally contributed by them, shall be made, acknowl-

edged, filed, recorded and published and an affidavit of publication filed and recorded in like manner as is herein provided for the certificate of its original formation.

SECTION 8. During the continuance of such partnership no part of its capital shall be withdrawn, nor shall any division of interest or profits be so made as to reduce such capital below the amount stated in said certificates; but a special partner may withdraw from the profits the interest on the capital contributed by him at any rate agreed on not exceeding six per cent per annum, if such withdrawal does not impair the capital. If at any time during the continuance or at the termination of the partnership its assets are not sufficient to pay its debts, the special partners shall severally be held liable for all money by them in any way withdrawn or received, except as above provided, with interest thereon from the time when it was so withdrawn or received.

Capital not to be withdrawn, except, etc.
1835, 48, § 8.
R. S. 34, § 8.
G. S. 55, § 8.
P. S. 75, § 8.
1887, 248, § 2.
127 Mass. 291.

SECTION 9. All suits relating to the business of such partnerships shall be prosecuted by and against the general partners only, except when special partners are held liable as general partners and except when special partners are held severally liable on account of money by them withdrawn from the common stock as provided in the preceding section, in which case all the partners so liable may join or be joined.

Suits by and against the partnership, etc.
1835, 48, § 9.
R. S. 34, § 11.
G. S. 55, § 9.
P. S. 75, § 9.
131 Mass. 504.

SECTION 10. No such partnership shall be dissolved, except by operation of law, before the time specified in the certificate of its formation or renewal or extension, unless a notice of such dissolution is filed and recorded in the office of the secretary of the commonwealth, and is published and an affidavit of publication is made as provided in section six.

Notice of dissolution.
1835, 48, § 10.
R. S. 34, § 12.
G. S. 55, § 10.
1873, 320, § 5.
P. S. 75, § 10.

SECTION 11. Except as provided in this chapter the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

General liability of limited partnerships.
1835, 48, § 11.
R. S. 34, § 13.

G. S. 55, §§ 5, 6, 11. P. S. 75, § 12. 1887, 248, § 4. 5 Allen, 530.

CHAPTER 72.

OF THE USE OF LABELS, TRADE MARKS AND NAMES.

SECTION 1. — Definitions.
SECTIONS 2–14. — Labels and Trade Marks.
SECTIONS 15–18. — Bottles, etc.
SECTIONS 19–23. — Milk Cans.

DEFINITIONS.

SECTION 1. The following words shall, in addition to their ordinary meaning, have the meaning herein given:

The word "name" or "names" in sections two, three, six, ten, twelve, fourteen, fifteen, sixteen, eighteen, nineteen and twenty-one of this chapter includes "letters", "marks", "devices" and "figures";

Definitions.

The word "person" or "persons" in sections two, seven, nine, fourteen to twenty, inclusive, and twenty-three includes "firm", "association", "union" and "corporation";

The word "boots" in section four includes "half boots", "shoes", "pumps", "sandals", "slippers" and "overshoes";

The word "label" or "labels" in sections six to twelve, inclusive, includes "trade mark", "stamp" or "form of advertisement";

The word "beverage" or "beverages" in sections fifteen to eighteen, inclusive, includes also "milk", "cream", "soda water", "mineral" or "aerated waters", "ale", "beer", "ginger ale" or "similar beverages";

The word "vessel" or "vessels" in sections fifteen to eighteen, inclusive, includes "cans", "bottles", "siphons", "fountains" and "boxes";

The word "can" or "cans" in sections nineteen to twenty-three, inclusive, includes "jugs", "bottles" and "jars".

LABELS AND TRADE MARKS.

Trade marks, use regulated.
1852, 197.
1859, 234, § 1.
G. S. 56, § 1.
P. S. 76, § 1.
122 Mass. 139.
128 Mass. 477.
129 Mass. 325.
150 Mass. 583.
163 Mass. 191.

SECTION 2. When a person uses any peculiar name upon or connected with an article manufactured or sold by him to designate it as an article of a peculiar kind or quality, or as manufactured by him, no other person shall without his consent use the same or any similar name for the purpose of falsely representing an article to have been manufactured by or to be of the same kind or quality as those manufactured or sold by the person rightfully using such name.

Unlawful use.
1852, 197.
1859, 234, § 2.
G. S. 56, § 2.
P. S. 76, § 2.

SECTION 3. Whoever violates the provisions of the preceding section, and whoever knowingly sells or exposes for sale an article having a name upon or connected with it in violation of the provisions of the preceding section, shall be liable in an action of tort to any party aggrieved thereby for all damages actually incurred.

Boots, etc., how stamped.
1799, 63, §§ 1, 2.
R. S. 28, § 131.
G. S. 49, § 116.
P. S. 76, § 4.
3 Allen, 336.

SECTION 4. Every manufacturer of leather or boots shall have the exclusive right of stamping the articles manufactured by him with his name and the name of the place of manufacture; and such stamping shall be considered as a warranty that the article stamped is merchantable, made of good materials and well manufactured; and such article shall not be considered merchantable unless so stamped.

Unlawful use of name.
1853, 156, § 1.
G. S. 56, § 3.
P. S. 76, § 6.
3 Allen, 76.
109 Mass. 409.
110 Mass. 29.
139 Mass. 499.
163 Mass. 461.
169 Mass. 250.

SECTION 5. A person who carries on business in this commonwealth shall not assume or continue to use in his business the name of a person formerly connected with him in partnership or the name of any other person, either alone or in connection with his own or with any other name or designation, without the consent in writing of such person or of his legal representatives.

Restraint of use of names, etc.
1852, 197.
1853, 156, § 2.

SECTION 6. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain the use of names or labels in violation of the provisions of this chapter.

1859, 234, § 3. G. S. 56, § 4. P. S. 76, § 7. 2 Gray, 379. 3 Allen, 76.

SECTION 7. A person may adopt a label, not previously owned or adopted by any other person, and file such label for record, by depositing two copies or facsimiles thereof in the office of the secretary of the commonwealth, one of which copies or facsimiles shall be attached by the secretary of the commonwealth to the certificate of record hereinafter referred to. The applicant shall file with the label a certificate specifying the name of the person so filing such label, his residence, situation or place of business, the kind of merchandise to which such label has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. If such label has not been and is not intended to be used in connection with merchandise, the particular purpose or use for which it has been or is intended shall be stated in the certificate. Such certificate shall be accompanied by a written declaration, verified under oath by the person, or by a member of the firm or by an officer of the association, union or corporation, by which it is filed, that the party so filing such label has a right to use the same, and that no other person has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the copies or facsimiles filed therewith are true. The secretary of the commonwealth shall issue to the person depositing such label a certificate of record, under the seal of the commonwealth, and the secretary shall cause the certificate to be recorded in his office. Such certificate of record, or a certified copy of its record in the office of the secretary of the commonwealth, shall in all suits and prosecutions under the provisions of this section and of sections eight to fourteen, inclusive, be sufficient proof of the recording of such label and of the existence of the person named in the certificate. The fee for filing the certificate and declaration and issuing the certificate of record shall be two dollars. No label shall be recorded which could reasonably be mistaken for a label already on record.

Adoption of labels.
1893, 443, §§ 1, 4.
1895, 462, § 1.
1899, 359, § 1.
152 Mass. 101.
170 Mass. 266.
176 Mass. 129.
[1 Op. A. G. 100, 601.]

SECTION 8. The secretary of the commonwealth is authorized to make regulations, and prescribe forms for the filing of labels, under the provisions of the preceding section. 1899, 359, § 2.

Regulations and forms for filing.
1893, 443, § 6.
1895, 462, § 2.

SECTION 9. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain the manufacture, use or sale of counterfeits or imitations of a label, recorded as provided in section seven, shall award damages resulting from such wrongful manufacture, use or sale and shall require the defendant to pay the owner of such label the profits derived from such wrongful manufacture, use or sale; and may also order that all such counterfeits or imitations in his possession or control be delivered to an officer of the court, or to the complainant, to be destroyed. If the complainant is not incorporated, suits under the provisions of sections seven, eight and ten to fourteen, inclusive, may be commenced and prosecuted by an officer thereof, on behalf of and for the use of the complainant. Every member of a complainant firm, association or union shall be liable for costs in any such proceeding.

Restraint of use of counterfeits, etc.
1893, 443, § 5.
1895, 462, § 3.
170 Mass. 266.

SECTION 10. Whoever knowingly makes or uses any counterfeit or imitation of any lawful name or label or causes the same to be

Penalty for illegal use of names and labels.

1799, 63, § 3. R. S. 28, § 132. G. S. 49, § 117; 161, § 55. P. S. 76, § 5; 203, § 63. 1890, 104. 1893, 443, § 2. 1895, 462, § 4. 1899, 359, § 3.

made or used, or sells, offers for sale, deals in or has in his possession with intent to use, sell, offer for sale or deal in the same, or affixes, impresses or uses such counterfeit or imitation upon any goods, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Penalty for selling or having in possession false dies, etc. 1899, 359, § 4.

SECTION 11. Whoever, with intent to defraud, knowingly casts, engraves or manufactures, or has in his possession, or buys, sells, offers for sale or deals in, a die, plate, brand, mould, or engraving on wood, stone, metal or other substance, of a label recorded pursuant to the statutes of this commonwealth, or a printing press, or types or other tools, machines or materials provided or prepared for making a counterfeit or imitation of such label, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

— for selling goods falsely marked. G. S. 161, § 56. 1870, 340. P. S. 76, § 3; 203, § 64. 1890, 104.

SECTION 12. Whoever knowingly sells or exposes for sale goods upon which any lawful name or label or any counterfeit or imitation thereof is unlawfully affixed, impressed, or used shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

1893, 443, § 3. 1894, 285. 1895, 462, § 5.

— for aiding and abetting. 1899, 359, § 5.

SECTION 13. Whoever, with intent to defraud, knowingly aids or abets in the violation of any of the provisions of the seven preceding sections shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Defence of prior ownership. 1893, 443, § 7. 1895, 462, § 6. 1899, 359, § 6.

SECTION 14. In any suit or prosecution under the provisions of the five preceding sections, the defendant may show that he was the owner of such name or label prior to its being filed under the provisions of section seven, and that it has been wrongfully filed by some other person.

BOTTLES, ETC.

Registry of devices for bottles, etc. 1893, 440, § 1.

SECTION 15. Persons engaged in manufacturing, bottling or selling beverages in vessels with their name and the word "registered" branded, engraved, blown or otherwise produced thereon, or on the boxes used by them, may file in the office of the clerk of the city or town in which their principal place of business is situated, and also in the office of the secretary of the commonwealth, a description of the name so used by them, and shall publish such description once in each of four successive weeks in a newspaper, if any, published in the city or town in which said description has been filed; otherwise, in a newspaper published in the county in which said city or town is situated.

Penalty for unlawful use thereof. 1893, 440, § 2.

SECTION 16. Whoever fills with a beverage, with intent to sell the same, any vessel, marked or distinguished as aforesaid, the description of which has been filed and published as provided in the preceding section, or defaces, erases, covers up or otherwise re-

moves or conceals any such name, or the word "registered" thereon, or sells, buys, gives, takes or otherwise disposes of or traffics in the same, without the written consent of, or unless the same has been purchased from, the person whose name is in or upon the vessel so filled, defaced, trafficked in or otherwise used or disposed of shall, for the first offence, be punished by a fine of not less than fifty cents for each such vessel or by imprisonment for not less than ten days nor more than one year, or by both such fine and imprisonment; and for each subsequent offence, by a fine of not less than one dollar nor more than five dollars for each such vessel or by imprisonment for not less than twenty days nor more than one year.

Prima facie evidence of unlawful use, etc. 1893, 440, § 3.

SECTION 17. The use by any person engaged in manufacturing, bottling or selling beverages, of a vessel, marked or distinguished as aforesaid, the description of which has been filed and published as provided in section fifteen, without the written consent of, or purchase from, the owner thereof, or the buying, selling, disposing of or trafficking in such vessels by such person without such written consent or purchase, or the possession by any junk dealer or dealer in second hand articles of any such vessels, without the written consent of, or purchase from, the owner thereof, shall be prima facie evidence of unlawful use, possession of or traffic in the same.

Complaint, search warrant, etc. 1893, 440, § 4.

SECTION 18. Upon complaint of a person who has complied with the provisions of section fifteen, or his agent, to a police, district or municipal court or to a trial justice, that he has reason to believe and does believe that any of his vessels, marked or distinguished as provided in said section, the description of the name, on which, with the word "registered", has been filed and published as provided in said section, are being unlawfully used or filled by a person engaged in manufacturing, bottling or selling beverages, or that a junk dealer or dealer in second hand articles, or a vendor of cans or bottles, has any such vessels in his possession, or secreted in any place, said court or justice may thereupon issue a search warrant; and may also cause the person in whose possession such vessels are found to be brought before him, and shall thereupon inquire into the circumstances of such possession; and shall award possession of the property taken upon such search warrant to the owner thereof.

MILK CANS.

Registry of milk cans. 1900, 359, § 1.

SECTION 19. A person engaged in buying, selling or dealing in milk or cream in cans, with his name and the word "registered" branded, engraved, blown or otherwise produced in a permanent manner in or upon such cans, may file in the office of the clerk of the city or town in which his principal place of business is situated, and also in the office of the secretary of the commonwealth, a description of the name so used by him, and shall publish such description once in each of four successive weeks in a newspaper, if any, published in the city or town in which said description has been filed; otherwise, in a newspaper published in the county in which said city or town is situated.

Penalty for illegal use. 1900, 359, § 2.

SECTION 20. Whoever without the consent of the owner takes, detains or uses in his business, sells, disposes of, buys, conceals or traffics in any milk can, the owner of which has complied with the provisions of the preceding section shall be punished for the first offence by a fine of not more than five dollars or by imprisonment for not more than sixty days, for each can so taken, detained or used in his business, sold, disposed of, bought, concealed or trafficked in, and for any subsequent offence, by a fine of not more than ten dollars or by imprisonment for not more than six months, for each can so taken, detained or used in his business, sold, disposed of, bought, concealed or trafficked in. Possession by a person in the transaction of his business of any such article the owner of which has complied with the provisions of the preceding section shall be prima facie evidence of the unlawful taking, use, detention, possession of or traffic in the same.

— for destruction. 1900, 359, § 3.

SECTION 21. Whoever without the consent of an owner who has complied with the provisions of section nineteen wilfully destroys, mutilates or defaces any can bearing such owner's name, or wilfully erases, mars, covers or changes any word or name branded, engraved, blown or otherwise produced, in a permanent manner in or upon such can shall be punished for the first offence by a fine of not more than five dollars or by imprisonment for not more than sixty days, for each can so destroyed, mutilated or defaced, or for each can upon which any word or name has been erased, marred, covered or changed; and for any subsequent offence by a fine of not more than ten dollars or by imprisonment for not more than six months, for each can so destroyed, mutilated or defaced, or for each can upon which any word or name has been erased, marred, covered or changed.

— for defiling. 1900, 359, § 4.

SECTION 22. Whoever puts an unclean or foul substance or matter into any milk can, the owner of which has complied with the provisions of section nineteen, shall be punished for the first offence by a fine of not less than fifty cents nor more than five dollars for each can so defiled; and for any subsequent offence by a fine of not less than two dollars nor more than twenty dollars for each can so defiled.

Search warrant. 1900, 359, § 5.

SECTION 23. Upon complaint of a person who has complied with the provisions of section nineteen or his agent to a police, district or municipal court or a trial justice that he has reason to believe and does believe that a person has wrongfully in possession or is secreting any of his milk cans, marked and described as provided in section nineteen, said court or justice may issue a search warrant to discover and obtain the same and may also cause to be brought before him the person or his agent or employee in whose possession such cans are found, and shall thereupon inquire into the circumstances of such possession; and if said court or justice finds that such person has been guilty of a wilful violation of any of the provisions of the three preceding sections it or he shall impose the penalty prescribed in the section so violated and shall also order the property taken upon such search warrant to be delivered to the owner.

CHAPTER 73.

OF MONEY AND NEGOTIABLE INSTRUMENTS.

SECTIONS 1, 2. — Money of Account.
SECTION 3. — Interest of Money.
SECTIONS 4–6. — Registration of Bonds and Other Securities.
SECTIONS 7, 8. — Obligations to be Redeemed in Numerical Order.
SECTIONS 9–12. — Bills of Exchange and Other Contracts.
SECTIONS 13–17. — General Provisions.
SECTIONS 18–142. — Negotiable Instruments, in General.
SECTIONS 143–200. — Bills of Exchange.
SECTIONS 201–206. — Promissory Notes and Checks.
SECTIONS 207–212. — Definitions and Rules.

MONEY OF ACCOUNT.

Money of account. 1794, 42, § 1. R. S. 35, § 5. G. S. 53, § 1. P. S. 77, § 1.

SECTION 1. The money of account of this commonwealth shall be the dollar, cent and mill. Proceedings in court, accounts in the public offices and other public accounts shall be had and kept in accordance herewith. U. S. Rev. Sts., § 3563.

Accounts, etc., expressed in other moneys. 1794, 42, § 2. R. S. 35, § 6. G. S. 53, § 2. P. S. 77, § 2.

SECTION 2. The provisions of the preceding section shall not vitiate or affect an account, charge or entry made, or a note, bond or other instrument expressed in any other money of account; but in a suit thereon such other money shall be reduced to dollars and fractions thereof.

INTEREST OF MONEY.

Rate of interest. C. L. 153, § 3. 1693, 1. 1749–50, 23, § 1. 1783, 55. 1825, 143. 1826, 27. R. S. 35, §§ 1–4. 1846, 199. G. S. 53, §§ 3–5. 1863, 242. 1867, 56, §§ 1, 2. 1870, 292. P. S. 77, § 3. 112 Mass. 63. 125 Mass. 562.

SECTION 3. If there is no agreement or provision of law for a different rate, the interest of money shall be at the rate of six dollars on each hundred dollars for a year, but, except as provided in sections thirty-five, forty-one, fifty-one, fifty-three, fifty-seven, sixty, sixty-one and sixty-two of chapter one hundred and two, it shall be lawful to pay, reserve or contract for any rate of interest or of discount. No greater rate than that before mentioned shall be recovered in a suit unless the agreement to pay it is in writing, and no bond issued by a corporation shall bear interest at a yearly rate exceeding seven dollars upon each hundred.

129 Mass. 82. 148 Mass. 231. 152 Mass. 74, 327. 176 Mass. 38.

REGISTRATION OF BONDS AND OTHER SECURITIES.

Issue of registered bonds. 1876, 238, § 1. P. S. 77, § 5.

SECTION 4. A county, city or town or any corporation organized under the laws of this commonwealth may, at the request of the owner or holder of a bond, promissory note or certificate of indebtedness issued by it payable to bearer, at any time more than one year before maturity thereof, issue in exchange therefor a bond, note or certificate of the same effect, payable to the owner or holder by name.

Issue of new registered bonds.

SECTION 5. A person to whom a bond, note or certificate issued under the preceding section is transferred by operation of law or by

1876, 238, § 2. P. S. 77, § 6.

assignment acknowledged before an officer authorized to take acknowledgments of deeds conveying real property in this commonwealth, shall be entitled in exchange therefor to a new bond, note or certificate of the same effect, payable to him by name.

Cities, etc., to keep registers of bonds. 1876, 238, § 3. P. S. 77, § 7.

SECTION 6. Such county, city, town or corporation shall keep a register showing the number, date, amount and rate of interest of each bond, promissory note or certificate of indebtedness issued by it under the provisions of the two preceding sections; of the time when payable and the name of the payee; and of the bonds, notes or certificates, if any, received in exchange therefor; and shall be entitled to a fee of fifty cents for each bond, note or certificate so registered.

OBLIGATIONS TO BE REDEEMED IN NUMERICAL ORDER.

Bonds, etc., redeemable in numerical order, etc., not to be issued. 1891, 382, § 1.

SECTION 7. No person or corporation shall issue, negotiate or sell any bonds, certificates or obligations of any kind, which are by the terms thereof to be redeemed in numerical order or in any arbitrary order of precedence without reference to the amount previously paid thereon by the holder thereof, whether they are sold on the instalment plan or otherwise.

Penalties. 1891, 382, §§ 2-4.

SECTION 8. A person or corporation violating the provisions of the preceding section shall forfeit fifty dollars for each offence. Such violation by a domestic corporation shall operate as a forfeiture of its franchise; and such violation by a foreign corporation, association or organization shall operate as a discontinuance of its right to do business in this commonwealth, and the supreme judicial court or the superior court, upon the application of the commissioner of corporations, shall have jurisdiction in equity to enjoin such foreign corporation, association or organization from further continuing its business in this commonwealth.

BILLS OF EXCHANGE AND OTHER CONTRACTS.

Damages on bills payable outside the United States. 1825, 177, § 1. R. S. 33, § 1. G. S. 53, § 11. 1863, 201, § 2. P. S. 77, § 18.

SECTION 9. When a bill of exchange, drawn or indorsed within this commonwealth and payable beyond the limits of the United States, is duly protested for non-acceptance or non-payment, the party liable on such bill shall, on due notice and demand, pay it at the current rate of exchange on the date of the demand, with interest from the date of the protest and damages at the rate of five per cent upon the principal thereof; and the amount of principal, interest and damages, shall be in satisfaction of all charges, expenses and damages.

— on other contracts. 1863, 201, § 1. P. S. 77, § 19.

SECTION 10. In an action on a contract, other than a bill of exchange, for the payment of money beyond the limits of the United States, the amount to be recovered by the creditor shall be determined by the current rate of exchange on the date when such contract becomes due, with interest from such date.

Damages on bills payable out of the

SECTION 11. The rates of damages to be allowed upon a bill of exchange duly protested for non-acceptance or non-payment, if

drawn or indorsed within this commonwealth and payable at a place beyond its limits but within the United States, shall, in addition to the principal thereof with interest and costs, be as follows: if payable in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, or New York, two per cent; in New Jersey, Pennsylvania, Maryland, or Delaware, three per cent; in Virginia, West Virginia, North Carolina, South Carolina, or Georgia, or in the District of Columbia, four per cent; and in any other of the United States or in the territories thereof, five per cent.

commonwealth, but within the United States. 1819, 41, § 1. 1820, 2. R. S. 33, § 3. 1837, 239. G. S. 53, § 13. P. S. 77, § 20.

SECTION 12. The rate of damages upon a bill of exchange or order for the payment of not less than one hundred dollars, drawn or indorsed within this commonwealth and payable therein at a place not less than seventy-five miles distant from the place where it is drawn or indorsed, when such bill or order is not duly accepted or paid, shall be one per cent in addition to the principal thereof, with interest thereon.

Damages on bills payable within the commonwealth. 1819, 41, § 2. R. S. 33, § 4. G. S. 53, § 14. P. S. 77, § 21.

GENERAL PROVISIONS.

SECTION 13. The protest of a bill of exchange, note or order duly certified by a notary public under his hand and official seal shall be prima facie evidence of the facts stated in such protest, and of the giving of notice to the drawer or indorser.

Protest prima facie evidence. 1880, 4. P. S. 77, § 22. 154 Mass. 105. 165 Mass. 555.

SECTION 14. The provisions of lines one and four of section twenty-four shall apply to non-negotiable orders and drafts for money payable within the commonwealth. The provisions of section one hundred and two shall apply to all non-negotiable instruments and contracts, except that non-negotiable contracts other than non-negotiable bills of exchange, drafts, promissory notes, checks and orders for the payment of money shall be payable or performable on Saturday when they fall due on that day, unless it is a holiday. The provisions of section one hundred and fifty-three shall apply to non-negotiable bills of exchange and drafts.

Non-negotiable instruments. P. S. 77, § 11.

P. S. 77, § 17.

SECTION 15. Except as provided in the preceding section, the provisions of sections eighteen to two hundred and twelve, inclusive, shall apply to negotiable instruments only.

Negotiable instruments.

SECTION 16. A person becoming a party to a non-negotiable promissory note payable on time, by a signature in blank on the back thereof, shall be entitled to notice of non-payment the same as an indorser. 173 Mass. 436.

Notice to party signing on back. 1874, 404. P. S. 77, § 15. 168 Mass. 537.

SECTION 17. A depositary of funds subject to withdrawal by check or demand draft may pay a check or demand draft drawn on it by a depositor having funds on deposit to pay the same, notwithstanding his death, upon presentation within ten days after its date.

Payment of check after death of drawer. 1885, 210, § 1.

NEGOTIABLE INSTRUMENTS, IN GENERAL.

Form and Interpretation.

Negotiable instruments, form, etc. 1898, 533, § 1.

SECTION 18. An instrument to be negotiable must conform to the following requirements: —

1. It must be in writing and signed by the maker or drawer;

15 Mass. 386. 22 Pick. 83. 11 Gray, 502.

2. Must contain an unconditional promise or order to pay a sum certain in money; 2 Allen, 236. 7 Allen, 333. 12 Allen, 454. 122 Mass. 67. 124 Mass. 149. 126 Mass. 342. 127 Mass. 293. 134 Mass. 343. 151 Mass. 115. 167 Mass. 74.

4 Met. 230. 113 Mass. 523. 119 Mass. 137.

3. Must be payable on demand or at a fixed or determinable future time; 133 Mass. 151. 140 Mass. 218.

4. Must be payable to order or to bearer; and

5. Where the instrument is addressed to a drawee he must be named or otherwise indicated therein with reasonable certainty.

Sum payable. 1898, 533, § 2.

SECTION 19. The sum payable is a sum certain within the meaning of sections eighteen to two hundred and twelve, inclusive, although it is to be paid:

122 Mass. 67. 134 Mass. 343.

1. With interest; or

2. By stated instalments; or

3. By stated instalments, with a provision that, upon default in payment of any instalment or of interest, the whole shall become due; or

4. With exchange, whether at a fixed rate or at a current rate; or

5. With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

Order or promise to pay. 1898, 533, § 3.

SECTION 20. An unqualified order or promise to pay is unconditional within the meaning of sections eighteen to two hundred and twelve, inclusive, though coupled with:

4 Cush. 606. 137 Mass. 351.

1. An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

14 Pick. 268. 6 Cush. 6. 109 Mass. 36, 88.

2. A statement of the transaction which gives rise to the instrument. 134 Mass. 245.

But an order or promise to pay only out of a particular fund is not unconditional.

Time of payment. 1888, 329. 1898, 533, § 4.

SECTION 21. An instrument is payable at a determinable future time, within the meaning of sections eighteen to two hundred and twelve, inclusive, which is expressed to be payable:

10 Pick. 228. 125 Mass. 365. 133 Mass. 151.

1. At a fixed period after date or sight; or 164 Mass. 116.

2. On or before a fixed or determinable future time specified therein; or

3. On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening is uncertain.

14 Mass. 303. 15 Mass. 386. 4 Met. 230. 8 Met. 12.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect. 16 Gray, 592. 7 Allen, 333. 12 Allen, 454. 127 Mass. 293. 167 Mass. 74.

Negotiable character not affected by

SECTION 22. An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable.

But the negotiable character of an instrument otherwise negotiable is not affected by a provision which: — certain provisions. 1898, 533, § 5.

1. Authorizes the sale of collateral securities in case the instrument is not paid at maturity; or 122 Mass. 67. 128 Mass. 129.

2. Authorizes a confession of judgment if the instrument is not paid at maturity; or 140 Mass. 218.

3. Waives the benefit of any law intended for the advantage or protection of the obligor; or

4. Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

SECTION 23. The validity and negotiable character of an instrument are not affected by the fact that: — Same subject. 1852, 76. G. S. 53, § 6. P. S. 77, § 4. 1898, 533, § 6.

1. It is not dated; or

2. Does not specify the value given, or that any value has been given therefor; or 3 Met. 363.

3. Does not specify the place where it is drawn or the place where it is payable; or

4. Bears a seal; or 149 Mass. 500. 8 Gray, 575. 146 Mass. 233.

5. Designates a particular kind of current money in which payment is to be made. 103 Mass. 316. 4 Mass. 245. 8 Mass. 259. 11 Gray, 504.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

SECTION 24. An instrument is payable on demand: — Payable on demand. 1862, 130, § 2. P. S. 77, § 11. 1898, 533, § 7.

1. Where it is expressed to be payable on demand, or at sight, or on presentation; or 10 Pick. 228. 13 Pick. 418. 4 Gray, 316. 125 Mass. 365. 133 Mass. 151. 146 Mass. 118. 164 Mass. 116.

2. In which no time for payment is expressed. 146 Mass. 20.

Where an instrument is issued, accepted or indorsed, when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand. 18 Pick. 260.

SECTION 25. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of: — to order. 1898, 533, § 8. 118 Mass. 542.

1. A payee who is not maker, drawer, or drawee; or

2. The drawer or maker; or

3. The drawee; or

4. Two or more payees jointly; or

5. One or some of several payees; or

6. The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty. 3 Pick. 321. 106 Mass. 561. 150 Mass. 166.

SECTION 26. The instrument is payable to bearer: — to bearer. 1898, 533, § 9.

1. When it is expressed to be so payable; or

2. When it is payable to a person named therein or bearer; or 5 Pick. 526. 3 Gray, 502. 134 Mass. 343.

19 Pick. 99.

3. When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or

4. When the name of the payee does not purport to be the name of any person; or

5. When the only or last indorsement is an indorsement in blank.

Terms sufficient, when. 1898, 533, § 10.

SECTION 27. The instrument need not follow the language of this chapter, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

Date of making, etc. 1898, 533, § 11. 5 Mass. 286. 7 Gray, 543.

SECTION 28. Where the instrument or an acceptance or any indorsement thereon is dated such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement, as the case may be.

Not invalid if ante-dated, etc. 1898, 533, § 12. 11 Met. 276. 13 Allen, 123. 156 Mass. 508.

SECTION 29. The instrument is not invalid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

Holder may insert date, when. 1898, 533, § 13. 10 Cush. 373.

SECTION 30. Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him the date so inserted is to be regarded as the true date.

—may complete, when. 1898, 533, § 14. 2 Allen, 236. 10 Cush. 373. 125 Mass. 496. 150 Mass. 574.

SECTION 31. Where the instrument is wanting in any material particular the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature, in order that the paper may be converted into a negotiable instrument, operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given, and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given, and within a reasonable time.

Incomplete instrument not a valid contract, when. 1898, 533, § 15.

SECTION 32. Where an incomplete instrument has not been delivered it will not, if completed and negotiated without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

Contract incomplete until delivery. 1898, 533, § 16.

SECTION 33. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose

of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. Where the instrument is no longer in the possession of a party whose signature appears thereon a valid and intentional delivery by him is presumed until the contrary is proved.

9 Mass. 423. 13 Pick. 499. 16 Pick. 574. 1 Met. 423. 4 Cush. 604. 10 Cush. 488. 3 Gray, 502. 7 Gray, 543. 16 Gray, 74. 3 Allen, 192. 5 Allen, 140. 116 Mass. 310. 119 Mass. 383. 129 Mass. 52. 152 Mass. 37. 158 Mass. 79.

SECTION 34. Where the language of the instrument is ambiguous, or there are omissions therein, the following rules of construction apply:

Rules of construction when language is ambiguous. 1874, 404.

1. Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain reference may be had to the figures to fix the amount;

P. S. 77, § 15. 1898, 533, § 17. 13 Met. 262. 1 Gray, 436.

2. Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

3. Where the instrument is not dated it will be considered to be dated as of the time it was issued;

4. Where there is a conflict between the written and printed provisions of the instrument the written provisions prevail;

5. Where the instrument is so ambiguous that there is doubt whether it is a bill or note the holder may treat it as either at his election;

100 Mass. 12. 126 Mass. 342.

6. Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign he is to be deemed an indorser;

125 Mass. 134. 127 Mass. 37, 72. 128 Mass. 363. 133 Mass. 284. 148 Mass. 597. 168 Mass. 537. 173 Mass. 122.

7. Where an instrument containing the words "I promise to pay" is signed by two or more persons they are deemed to be jointly and severally liable thereon.

7 Mass. 57.

SECTION 35. No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Liability of certain persons. 1898, 533, § 18. 10 Mass. 360. 3 Pick. 297, 322. 8 Pick. 56. 2 Met. 47. 6 Cush. 233. 7 Cush. 111. 5 Gray, 567. 16 Gray, 77. 4 Allen, 403. 5 Allen, 338. 7 Allen, 337. 8 Allen, 460. 98 Mass. 101. 104 Mass. 336. 106 Mass. 561. 111 Mass. 368.

SECTION 36. The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

Signature by agent. 1898, 533, § 19.

SECTION 37. Where the instrument contains, or a person adds to his signature, words indicating that he signs for or on behalf of a

Person signing not liable. 1898, 533, § 20.

11 Mass. 288. 22 Pick. 158. 1 Cush. 228. 3 Cush. 339. 12 Gray, 475. 16 Gray, 77. 5 Allen, 338. 8 Allen, 460. 98 Mass. 101. 106 Mass. 561.

principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability. 111 Mass. 368. 119 Mass. 189. 120 Mass. 92. 122 Mass. 67. 126 Mass. 119. 141 Mass. 587. 172 Mass. 513.

Signature by "procuration." 1898, 533, § 21.

SECTION 38. A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Indorsement, etc., by corporation. 1898, 533, § 22. 11 Met. 398. 3 Gray, 215.

SECTION 39. The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Forged signature inoperative. 1898, 533, § 23. 4 Allen, 447. 97 Mass. 498. 121 Mass. 157. 123 Mass. 393. 167 Mass. 315. 171 Mass. 516, 534.

SECTION 40. Where a signature is forged or made without the authority of the person whose signature it purports to be it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

Consideration.

Person signing a party. 1898, 533, § 24. 3 Met. 363. 1 Cush. 168. 6 Cush. 364. 1 Gray, 496.

SECTION 41. Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration, and every person whose signature appears thereon to have become a party thereto for value. 8 Gray, 589. 144 Mass. 104. 145 Mass. 156. 167 Mass. 529.

Value. 1898, 533, § 25. 3 Cush. 162. 163 Mass. 383. 168 Mass. 90, 570.

SECTION 42. Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value, and is deemed such whether the instrument is payable on demand or at a future time.

Holder for value. 1898, 533, § 26.

SECTION 43. Where value has at any time been given for the instrument the holder is deemed a holder for value in respect to all parties who became such prior to that time.

—to extent of lien, when. 1898, 533, § 27. 9 Pick. 163. 8 Met. 40. 1 Allen, 303, 436.

SECTION 44. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien. 98 Mass. 303. 166 Mass. 45.

Absence of consideration a defence. 1898, 533, § 28. 14 Pick. 198. 1 Allen, 436. 97 Mass. 166.

SECTION 45. Absence or failure of consideration is matter of defence as against any person not a holder in due course; and partial failure of consideration is a defence pro tanto, whether the failure is an ascertained and liquidated amount or otherwise. 131 Mass. 80. 132 Mass. 185. 139 Mass. 379. 163 Mass. 134. 165 Mass. 218, 503, 518.

Accommodation party. 1898, 533, § 29. 3 Pick. 5.

SECTION 46. An accommodation party is one who has signed the instrument as maker, drawer, acceptor or indorser, without

receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

9 Pick. 547. 9 Met. 297. 12 Met. 311. 4 Cush. 604. 7 Cush. 224. 11 Gray, 125.

1 Allen, 499. 5 Allen, 330. 97 Mass. 494. 101 Mass. 57. 105 Mass. 216. 115 Mass. 547. 158 Mass. 94. 166 Mass. 27. 169 Mass. 297. 171 Mass. 514.

Negotiation.

SECTION 47. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

Negotiation of instruments. 1898, 533, § 30. 16 Mass. 450. 3 Pick. 297. 5 Pick. 526. 19 Pick. 99. 21 Pick. 140. 5 Met. 201.

12 Met. 452. 7 Cush. 482. 6 Gray, 570. 6 Allen, 34. 100 Mass. 18. 113 Mass. 323.

SECTION 48. The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

Indorsement. 1898, 533, § 31. 18 Pick. 63. 173 Mass. 210.

SECTION 49. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part it may be indorsed as to the residue.

—of entire instrument. 1898, 533, § 32. 6 Allen, 34.

SECTION 50. An indorsement may be either special or in blank; and it may also be either restrictive, or qualified, or conditional.

—special or in blank. 1898, 533, § 33.

SECTION 51. A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank does not specify any indorsee, and an instrument so indorsed is payable to bearer and may be negotiated by delivery.

Special indorsement, etc. 1898, 533, § 34. 9 Mass. 423. 15 Mass. 436.

SECTION 52. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

Holder may convert blank to special, when. 1898, 533, § 35. 11 Mass. 287.

8 Pick. 46. 19 Pick. 373. 13 Met. 262. 3 Allen, 192.

SECTION 53. An indorsement is restrictive, which either:

1. Prohibits the further negotiation of the instrument; or
2. Constitutes the indorsee the agent of the indorser; or

Indorsement restrictive, when. 1898, 533, § 36. 6 Mass. 430.

132 Mass. 227. 148 Mass. 553. 151 Mass. 413.

3. Vests the title in the indorsee in trust for or to the use of some other person.

6 Mass. 430.

But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

3 Mass. 224.

SECTION 54. A restrictive indorsement confers upon the indorsee the right:

—rights of indorsee thereunder. 1898, 533, § 37.

1. To receive payment of the instrument;
5 Mass. 542. 2. To bring any action thereon that the indorser could bring;
11 Met. 276. 156 Mass. 11.

3. To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

Qualified indorsement. 1898, 533, § 38. 3 Mass. 224. 14 Pick. 268. 5 Met. 201. 2 Allen, 434.

SECTION 55. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "*without recourse*", or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.

Conditional indorsement. 1898, 533, § 39.

SECTION 56. Where an indorsement is conditional a party required to pay the instrument may disregard the condition and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

Instrument indorsed specially may be further negotiated. 1898, 533, § 40. 4 Allen, 356.

SECTION 57. Where an instrument payable to bearer is indorsed specially it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser only to such holders as make title through his indorsement.

Indorsement by payees, etc., not partners. 1898, 533, § 41. 9 Mass. 333.

SECTION 58. Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.
16 Mass. 314. 14 Pick. 268. 6 Gray, 570.

Instrument payable to bank, when. 1898, 533, § 42. 11 Mass. 93, 287. 17 Mass. 93. 18 Pick. 63. 21 Pick. 486. 1 Cush. 253. 9 Cush. 46.

SECTION 59. Where an instrument is drawn or indorsed to a person as "cashier", or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer, and may be negotiated either by the indorsement of the bank or corporation, or by the indorsement of the officer.

Misspelled name, as to. 1898, 533, § 43. 11 Cush. 520. 141 Mass. 231.

SECTION 60. Where the name of a payee or indorsee is wrongly designated or misspelled he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature.

Indorser in a representative capacity. 1898, 533, § 44. 6 Mass. 58. 12 Gray, 474.

SECTION 61. Where any person is under obligation to indorse in a representative capacity he may indorse in such terms as to negative personal liability. 122 Mass. 67. 172 Mass. 513.

Indorsement dated after maturity; effect. 1898, 533, § 45.

SECTION 62. Except where an indorsement bears date after the maturity of the instrument every negotiation is deemed prima facie to have been effected before the instrument was overdue.
1 Met. 369. 10 Gray, 343. 3 Allen, 233.

Place of indorsement. 1898, 533, § 46.

SECTION 63. Except where the contrary appears every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

SECTION 64. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

Negotiability to continue, until.
1898, 533, § 47.

SECTION 65. The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out and all indorsers subsequent to him are thereby relieved from liability on the instrument.

Holder may strike out indorsement.
1898, 533, § 48.
8 Pick. 47.

SECTION 66. Where the holder of an instrument payable to his order transfers it for value without indorsing it the transfer vests in the transferee such title as the transferrer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferrer. But for the purpose of determining whether the transferee is a holder in due course the negotiation takes effect as of the time when the indorsement is actually made.

Transfer of instrument.
1898, 533, § 49.
13 Mass. 304.
24 Pick. 261.
1 Met. 369.
1 Cush. 300.
7 Cush. 595.
100 Mass. 18.
153 Mass. 536.

SECTION 67. Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of sections eighteen to two hundred and twelve, inclusive, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

Reissue of instrument.
1898, 533, § 50.
12 Mass. 77.
124 Mass. 506.

Rights of the Holder.

SECTION 68. The holder of a negotiable instrument may sue thereon in his own name, and payment to him in due course discharges the instrument.

Rights of holder.
1898, 533, § 51.
14 Pick. 172.
12 Met. 565.

10 Cush. 488. 3 Gray, 412. 9 Gray, 376.
4 Allen, 356. 112 Mass. 450. 125 Mass. 333. 128 Mass. 517.
5 Allen, 331. 113 Mass. 323. 126 Mass. 533. 129 Mass. 52, 438.
9 Allen, 408. 117 Mass. 290. 127 Mass. 75. 166 Mass. 42.

SECTION 69. A holder in due course is a holder who has taken the instrument under the following conditions:

Holder in due course.
1898, 533, § 52.

1. That it is complete and regular upon its face;

2. That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;

11 Gray, 38.
4 Allen, 562.
168 Mass. 425.

3. That he took it in good faith and for value;

8 Gray, 254.
168 Mass. 425.

4. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

SECTION 70. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue the holder is not deemed a holder in due course.

Negotiation of instrument payable on demand.
1839, 121, § 1.
1845, 68.

1857, 192. 1858, 70.
G. S. 53, § 10. 6 Pick. 258. 1 Met. 369. 98 Mass. 294.
P. S. 77, § 14. 15 Pick. 92. 2 Met. 288. 136 Mass. 487.
1898, 533, § 53. 21 Pick. 193. 12 Gray, 216. 168 Mass. 425.

SECTION 71. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

Defect in title.
1898, 533, § 54.
2 Allen, 328.

Defective instruments, etc.
1898, 533, § 55.
4 Mass. 370.
11 Cush. 55.
9 Allen, 39.
146 Mass. 460.
161 Mass. 130.

SECTION 72. The title of a person who negotiates an instrument is defective within the meaning of sections eighteen to two hundred and twelve, inclusive, when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

Notice of defect in title.
1898, 533, § 56.
3 Pick. 452.
12 Pick. 545.
14 Pick. 268.
5 Met. 201.
7 Met. 529.
6 Cush. 233.

SECTION 73. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

10 Gray, 341. 1 Allen, 412, 502. 108 Mass. 497. 127 Mass. 75.
15 Gray, 354. 102 Mass. 503. 123 Mass. 60. 149 Mass. 447.

Holder in due course free from equities.
1898, 533, § 57.
20 Pick. 545.
3 Gray, 215.
9 Gray, 329.
16 Gray, 389.
1 Allen, 436, 502.
101 Mass. 57.

SECTION 74. A holder in due course holds the instrument free from any defect of title of prior parties, and free from defences available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

105 Mass. 216. 118 Mass. 541. 161 Mass. 96. 167 Mass. 161.
107 Mass. 439. 156 Mass. 508. 166 Mass. 43. 168 Mass. 71, 86, 570.

Rights of holder other than holder in due course.
1839, 121, § 1.
1845, 68.
1858, 70.
G. S. 53, § 10.
P. S. 77, § 14.
1898, 533, § 58.
1 Met. 423.
2 Met. 58, 288.
6 Met. 7.

SECTION 75. In the hands of any holder other than a holder in due course a negotiable instrument is subject to the same defences as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

9 Met. 278. 6 Cush. 19. 12 Gray, 216. 13 Allen, 123.
11 Met. 398. 4 Gray, 89. 4 Allen, 562. 104 Mass. 253.
4 Cush. 456. 11 Gray, 38. 6 Allen, 34. 171 Mass. 514.

Holder to prove title.
1898, 533, § 59.
11 Cush. 51.
10 Gray, 343.
1 Allen, 412.
111 Mass. 342.
131 Mass. 147.
156 Mass. 508.
159 Mass. 158.
163 Mass. 383.
168 Mass. 570.

SECTION 76. Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

Liabilities of Parties.

Liability of maker.
1898, 533, § 60.
15 Mass. 433.
3 Pick. 207.
1 Met. 423.
6 Cush. 19.
11 Cush. 274.

SECTION 77. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor; and admits the existence of the payee and his then capacity to indorse.

9 Gray, 376. 119 Mass. 383, 487. 140 Mass. 234. 164 Mass. 313.
13 Gray, 97. 121 Mass. 436. 146 Mass. 623. 165 Mass. 503.
16 Gray, 389. 125 Mass. 333. 154 Mass. 385. 166 Mass. 136.
4 Allen, 336, 353. 128 Mass. 517. 160 Mass. 286. 173 Mass. 16.

—of drawer.
1898, 533, § 61.
14 Mass. 116.
3 Pick. 414.
8 Pick. 79.
16 Pick. 535.
19 Pick. 117.
21 Pick. 327.
5 Gray, 108.
131 Mass. 281.
141 Mass. 231.
156 Mass. 395.

SECTION 78. The drawer, by drawing the instrument, admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it is dishonored, and the necessary proceedings on dishonor are duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the

instrument an express stipulation negativing or limiting his own liability to the holder.

SECTION 79. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits:

1. The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

2. The existence of the payee and his then capacity to indorse.

Liability of acceptor.
1898, 533, § 62.
2 Met. 53.
7 Allen, 361.
106 Mass. 441.
115 Mass. 547.
132 Mass. 156.
134 Mass. 331.
140 Mass. 144.
151 Mass. 280.
152 Mass. 34.

SECTION 80. A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity. 133 Mass. 284. 148 Mass. 597. 162 Mass. 156. 168 Mass. 537. 173 Mass. 122, 436.

When a person is an indorser.
1874, 404.
P. S. 77, § 15.
1898, 533, § 63.
125 Mass. 134.
127 Mass. 37, 72.
128 Mass. 363.

SECTION 81. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser in accordance with the following rules:

1. If the instrument is payable to the order of a third person he is liable to the payee and to all subsequent parties;

2. If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer;

3. If he signs for the accommodation of the payee he is liable to all parties subsequent to the payee.

Liability of such indorser.
1898, 533, § 64.

SECTION 82. Every person negotiating an instrument by delivery or by qualified indorsement warrants:

1. That the instrument is genuine and in all respects what it purports to be;

2. That he has a good title to it;

3. That all prior parties had capacity to contract;

4. That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to persons negotiating public or corporate securities, other than bills and notes.

Instrument negotiated by delivery, etc.
1898, 533, § 65.
6 Mass. 321.
1 Met. 193.
4 Gray, 156.
3 Allen, 258.
100 Mass. 487.
112 Mass. 30.

SECTION 83. Every indorser who indorses without qualification warrants to all subsequent holders in due course:

1. The matters and things mentioned in subdivisions one, two and three of the next preceding section; and 7 Pick. 291. 16 Pick. 533. 5 Met. 68. 6 Gray, 90. 7 Gray, 217. 167 Mass. 486.

2. That the instrument is at the time of his indorsement valid and subsisting. 130 Mass. 153. 157 Mass. 548.

And, in addition, he engages that on due presentment it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it is dishonored, and the necessary proceedings on dishonor are duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it.

Indorser without qualification.
1839, 121, § 3.
G. S. 53, § 9.
P. S. 77, § 13.
1898, 533, § 66.
11 Met. 398.
16 Gray, 389.
124 Mass. 506.
1 Pick. 401.
2 Pick. 125.
1 Met. 82.
146 Mass. 439.

Liability of the indorser.
1898, 533, § 67.

SECTION 84. Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liability of an indorser.

Indorsers liable in order of indorsements.
1898, 533, § 68.
9 Pick. 547.
7 Cush. 551.
7 Allen, 340.

SECTION 85. As respects one another indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

8 Allen, 41. 98 Mass. 214. 162 Mass. 594. 173 Mass. 122.

Liability of broker or agent.
1898, 533, § 69.
1 Met. 193.
4 Gray, 156.

SECTION 86. Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section eighty-two, unless he discloses the name of his principal and the fact that he is acting only as agent.

3 Allen, 258. 100 Mass. 487. 112 Mass. 30.

Presentment for Payment.

Presentment for payment.
1898, 533, § 70.
15 Mass. 447.
3 Pick. 414.
15 Pick. 212.
9 Cush. 321.
1 Gray, 496.
163 Mass. 255.

SECTION 87. Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is by its terms payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided presentment for payment is necessary in order to charge the drawer and indorsers.

—time of.
1839, 121, § 2.
G. S. 53, § 8.
P. S. 77, § 12.
1898, 533, § 71.
13 Mass. 130.
3 Pick. 414.
9 Pick. 420.
18 Pick. 260.
21 Pick. 267.

SECTION 88. Where the instrument is not payable on demand presentment must be made on the day it falls due. Where it is payable on demand presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

6 Met. 13. 11 Met. 400. 1 Gray, 496. 8 Gray, 221.

—by whom made.
1839, 121, § 2.
G. S. 53, § 8.
P. S. 77, § 12.
1898, 533, § 72.
1 Pick. 401.
4 Gray, 453.

SECTION 89. Presentment for payment, to be sufficient, must be made:

1. By the holder, or by some person authorized to receive payment on his behalf; 12 Pick. 399. 4 Met. 252. 102 Mass. 141.

2. At a reasonable hour on a business day;

3. At a proper place as herein defined;

4. To the person primarily liable on the instrument, or, if he is absent or inaccessible, to any person found at the place where the presentment is made.

—place of.
1898, 533, § 73.
13 Mass. 556.
12 Pick. 132.
18 Pick. 63.
6 Met. 308.
10 Gray, 252.
6 Mass. 448.
8 Mass. 259.
3 Pick. 414.
16 Pick. 392.

SECTION 90. Presentment for payment is made at the proper place:

1. Where a place of payment is specified in the instrument and it is there presented; 13 Gray, 154. 133 Mass. 339. 165 Mass. 384.

2. Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

3. Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

4. In any other case, if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence. 13 Gray, 503. 129 Mass. 67. 158 Mass. 90.

8 Mass. 259. 12 Mass. 171. 3 Met. 495. 6 Met. 290. 12 Gray, 469.

SECTION 91. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it. 8 Allen, 435. 165 Mass. 556.

Instrument to be delivered to party paying. 1898, 533, § 74.

SECTION 92. Where the instrument is payable at a bank presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

Presentment at bank. 1898, 533, § 75. 8 Gray, 225.

SECTION 93. Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative, if there is any such, and if, with the exercise of reasonable diligence, he can be found.

Where person liable is dead. 1898, 533, § 76. 12 Mass. 85. 7 Pick. 291.

SECTION 94. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

Where persons are liable as partners. 1898, 533, § 77. 1 Pick. 401.

SECTION 95. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all. 8 Met. 504. 8 Allen, 435.

Where there are several persons, not partners. 1898, 533, § 78.

SECTION 96. Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

Presentment not required, when. 1898, 533, § 79. 1 Cush. 228, 256.

SECTION 97. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation, and he has no reason to expect that the instrument will be paid if presented.

Same subject. 1898, 533, § 80.

SECTION 98. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

Delay excused, when. 1898, 533, § 81. 7 Mass. 483. 6 Pick. 80. 11 Gray, 258. 170 Mass. 356.

SECTION 99. Presentment for payment is dispensed with:

1. Where after the exercise of reasonable diligence presentment cannot be made; 7 Pick. 291. 6 Met. 290, 308. 12 Cush. 190, 210. 1 Gray, 175. 133 Mass. 339. 164 Mass. 112.

2. Where the drawee is a fictitious person;

3. By waiver of presentment, express or implied. 8 Allen, 435. 155 Mass. 26.

Presentment dispensed with, when. 1898, 533, § 82. 6 Mass. 448. 8 Mass. 452. 9 Mass. 332, 408. 5 Gray, 108.

Instrument dishonored, when.
1898, 533, § 83.
1 Pick. 401.
3 Pick. 414.
1 Met. 43.

SECTION 100. The instrument is dishonored by non-payment when:

1. It is duly presented for payment and payment is refused or cannot be obtained; or 15 Gray, 413. 102 Mass. 65.

2. Presentment is excused and the instrument is overdue and unpaid.

Right of recourse accrues, when.
1898, 533, § 84.
3 Met. 495.

SECTION 101. Subject to the provisions of sections eighteen to two hundred and twelve, inclusive, when the instrument is dishonored by non-payment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

Time of payment.
1824, 130.
R. S. 33, §§ 5, 6.
1838, 182.
1855, 91.
1856, 113, §§ 1, 2.
G. S. 53, §§ 7, 15, 16.
1862, 130.
1863, 182.
1881, 71.
P. S. 77, §§ 8–10.
1894, 333, 427.
1895, 201; 415, § 3.
1896, 228, 496.
1898, 533, § 85.
1899, 130.

SECTION 102. Every negotiable instrument is payable at the time fixed therein without grace, except that three days of grace shall be allowed upon a draft or bill of exchange made payable within this commonwealth at sight, unless there is an express stipulation to the contrary. When the day of maturity falls upon Sunday or a holiday the instrument is payable on the next succeeding business day. Instruments falling due or payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday, when that entire day is not a holiday.

8 Pick. 458. 23 Pick. 473. 12 Cush. 193. 4 Allen, 562.
21 Pick. 310. 2 Met. 168. 13 Gray, 597. 146 Mass. 118, 224.

Computation of time.
1898, 533, § 86.
9 Gray, 199.
132 Mass. 338.

SECTION 103. Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

If payable at a bank.
1898, 533, § 87.
15 Mass. 193.

SECTION 104. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

Payment in due course.
1898, 533, § 88.
19 Pick. 117.
20 Pick. 545.
11 Mass. 334.

SECTION 105. Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective. 161 Mass. 96.

Notice of Dishonor.

Notice of dishonor.
1839, 121, § 2.
G. S. 53, § 8.
P. S. 77, § 12.
1898, 533, § 89.
3 Pick. 414.

SECTION 106. Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or non-payment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged. 8 Pick. 79, 423. 18 Pick. 558.

21 Pick. 327. 3 Gray, 334. 121 Mass. 121. 163 Mass. 255.
23 Pick. 305. 14 Mass. 116. 159 Mass. 404. 165 Mass. 555.

—how given.
1898, 533, § 90.
14 Mass. 116.
10 Allen, 522.

SECTION 107. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who, upon taking it up, would have a right to reimbursement from the party to whom the notice is given.

SECTION 108. Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party is his principal or not. Notice of dishonor, by whom given. 1898, 533, § 91.

SECTION 109. Where notice is given by or on behalf of the holder it enures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given. —where given on behalf of holder. 1898, 533, § 92.

SECTION 110. Where notice is given by or on behalf of a party entitled to give notice it enures for the benefit of the holder and all parties subsequent to the party to whom notice is given. 1898, 533, § 93. —where given on behalf of party entitled to give notice.

SECTION 111. Where the instrument has been dishonored in the hands of an agent he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he gives notice to his principal he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder. —to whom given when instrument is dishonored in hands of agent. 1898, 533, § 94. 8 Pick. 50. 8 Met. 79. 132 Mass. 227.

SECTION 112. A written notice need not be signed and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby. —written, need not be signed. 1898, 533, § 95. 12 Mass. 6. 10 Allen, 522.

SECTION 113. The notice may be in writing or merely oral, and may be given in any terms which sufficiently identify the instrument and indicate that it has been dishonored by non-acceptance or non-payment. It may in all cases be given by delivering it personally or through the mails. —form and manner. 1868, 265. 1871, 239. P. S. 77, § 16. 1898, 533, § 96. 1 Pick. 401.

16 Pick. 392. 5 Cush. 546. 8 Mass. 259. 148 Mass. 181. 151 Mass. 348.
13 Met. 96, 422. 3 Allen, 438. 121 Mass. 121. 149 Mass. 212. 165 Mass. 555.

SECTION 114. Notice of dishonor may be given either to the party himself or to his agent in that behalf. 144 Mass. 406, 421. —to whom given. 1898, 533, § 97. 142 Mass. 290.

SECTION 115. When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there is one, and if with reasonable diligence he can be found. If there is no personal representative notice may be sent to the last residence or last place of business of the deceased. —in case of death, to whom given. 1898, 533, § 98. 22 Pick. 206. 10 Cush. 557. 122 Mass. 79.

SECTION 116. Where the parties to be notified are partners notice to any one partner is notice to the firm, even though there has been a dissolution. —to one of firm sufficient. 1898, 533, § 99. 12 Allen, 443.

SECTION 117. Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others. —to parties not partners, as to. 1898, 533, § 100.

SECTION 118. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee. —if party is bankrupt. 1898, 533, § 101. 142 Mass. 290. 144 Mass. 421.

Notice, time.
1898, 533, § 102.
14 Mass. 303.
1 Pick. 401.
3 Pick. 414.
9 Pick. 420.
12 Cush. 190.

SECTION 119. Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided must be given within the times fixed by sections eighteen to two hundred and twelve, inclusive. 121 Mass. 121.

Time of giving notice in certain cases.
1898, 533, § 103.

SECTION 120. Where the person giving and the person to receive notice reside in the same place notice must be given within the following times:

23 Pick. 305.

1. If given at the place of business of the person to receive notice it must be given before the close of business hours on the day following;

2. If given at his residence it must be given before the usual hours of rest on the day following;

17 Mass. 449.

3. If sent by mail it must be deposited in the post office in time to reach him in usual course on the day following.

Same subject.
1898, 533, § 104.

SECTION 121. Where the person giving and the person to receive notice reside in different places the notice must be given within the following times:

8 Allen, 38.

1. If sent by mail it must be deposited in the post office in time to go by mail the day following the day of dishonor, or if there is no mail at a convenient hour on that day, by the next mail thereafter.

2. If given otherwise than through the post office, then within the time that notice would have been received in due course of mail if it had been deposited in the post office within the time specified in the last sub-division.

Notice deposited in post office sufficient.
1868, 265.
1871, 239.
P. S. 77, § 16.

SECTION 122. Where notice of dishonor is duly addressed and deposited in the post office the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

1898, 533, § 105. 10 Cush. 557. 3 Allen, 438. 144 Mass. 406.
11 Gray, 387. 4 Met. 203. 107 Mass. 44. 151 Mass. 348.

Same subject.
1898, 533, § 106.
154 Mass. 105.

SECTION 123. Notice is deemed to have been deposited in the post office when deposited in any branch post office or in any letter box under the control of the post office department.

Time given to party receiving notice.
1898, 533, § 107.
5 Met. 212.
9 Met. 581.
2 Allen, 433.

SECTION 124. Where a party receives notice of dishonor he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

3 Allen, 438. 8 Allen, 38. 102 Mass. 177. 120 Mass. 92.

Notice sent to special address.
1898, 533, § 108.

SECTION 125. Where a party has added an address to his signature notice of dishonor must be sent to that address; but if he has not given such address then the notice must be sent as follows:

8 Cush. 425.
4 Gray, 167.
15 Gray, 264.

1. Either to the post office nearest to his place of residence, or to the post office where he is accustomed to receive his letters; or

4 Allen, 351. 107 Mass. 444. 120 Mass. 169. 128 Mass. 125.

5 Met. 352.

2. If he lives in one place, and has his place of business in another, notice may be sent to either place; or

3. If he is sojourning in another place notice may be sent to the place where he is so sojourning.

16 Pick. 392.

But where the notice is actually received by the party within the time specified in sections eighteen to two hundred and twelve, inclu-

sive, it will be sufficient, though not sent in accordance with the requirements of this section.

SECTION 126. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

Notice may be waived. 1898, 533, § 109. 4 Mass. 341. 5 Mass. 170.

9 Mass. 332. 10 Mass. 84. 19 Pick. 373. 5 Gray, 108. 8 Allen, 38. 124 Mass. 209. 127 Mass. 156. 138 Mass. 446. 149 Mass. 212. 155 Mass. 26. 167 Mass. 486.

SECTION 127. Where the waiver is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only.

Waiver binds whom. 1898, 533, § 110. 8 Cush. 157.

SECTION 128. A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a formal protest but also of presentment and notice of dishonor.

Waiver of protest. 1898, 533, § 111. 112 Mass. 63. 140 Mass. 173.

SECTION 129. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged.

Notice dispensed with, when. 1898, 533, § 112. 3 Pick. 180. 8 Pick. 251. 5 Met. 352.

144 Mass. 406. 148 Mass. 181. 149 Mass. 212. 150 Mass. 45.

SECTION 130. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate notice must be given with reasonable diligence.

Delay excused, when. 1898, 533, § 113. 5 Mass. 167. 7 Mass. 483, 494. 10 Mass. 84. 12 Mass. 450. 8 Pick. 1, 51. 9 Pick. 547.

23 Pick. 305. 11 Gray, 258. 170 Mass. 356.

SECTION 131. Notice of dishonor is not required to be given to the drawer in either of the following cases:

Notice not required, when. 1898, 533, § 114. 3 Gray, 334.

1. Where the drawer and drawee are the same person;
2. Where the drawee is a fictitious person or a person not having capacity to contract;
3. Where the drawer is the person to whom the instrument is presented for payment;
4. Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;

21 Pick. 327. 3 Gray, 334.

5. Where the drawer has countermanded payment.

SECTION 132. Notice of dishonor is not required to be given to an indorser in either of the following cases:

Same subject. 1898, 533, § 115.

1. Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;
2. Where the indorser is the person to whom the instrument is presented for payment;
3. Where the instrument was made or accepted for his accommodation.

SECTION 133. Where due notice of dishonor by non-acceptance has been given notice of a subsequent dishonor by non-payment is not necessary, unless in the meantime the instrument has been accepted.

Notice of dishonor by non-acceptance. 1898, 533, § 116.

Omission to give notice; effect.
1898, 533, § 117.

SECTION 134. An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission.

Instrument dishonored may be protested.
1898, 533, § 118.
140 Mass. 173.
165 Mass. 55.

SECTION 135. Where any negotiable instrument has been dishonored it may be protested for non-acceptance or non-payment as the case may be; but protest is not required, except in the case of foreign bills of exchange.

Discharge.

Discharge of negotiable instruments.
1898, 533, § 119.
5 Mass. 334.

SECTION 136. A negotiable instrument is discharged:

1. By payment in due course by or on behalf of the principal debtor; 17 Mass. 247. 2 Met. 288. 1 Allen, 499. 145 Mass. 567. 12 Pick. 126. 11 Cush. 352. 129 Mass. 438. 161 Mass. 96. 14 Pick. 221, 315. 12 Cush. 163. 131 Mass. 591. 169 Mass. 297.

10 Pick. 210.

2. By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

3. By the intentional cancellation thereof by the holder;

8 Mass. 480.
15 Pick. 225.
156 Mass. 19.

4. By any other act which will discharge a simple contract for the payment of money;

19 Pick. 220.
9 Met. 547.
10 Cush. 169.

5. When the principal debtor becomes the holder of the instrument at or after maturity in his own right. 11 Cush. 108, 318.

Discharge of person secondarily liable.
1898, 533, § 120.

SECTION 137. A person secondarily liable on the instrument is discharged: 9 Met. 511. 99 Mass. 181. 131 Mass. 591.

1. By any act which discharges the instrument; 10 Mass. 88. 9 Met. 297. 8 Cush. 157. 12 Cush. 163.

2. By the intentional cancellation of his signature by the holder;

6 Mass. 85.
12 Mass. 502.

3. By the discharge of a prior party; 7 Pick. 291. 8 Pick. 155.

4. By a valid tender of payment made by a prior party;

6 Cush. 537.
10 Cush. 299.
114 Mass. 120.

5. By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved; 125 Mass. 28. 159 Mass. 51.

10 Pick. 128.
3 Met. 255.
6 Gray, 317.
13 Gray, 580.
3 Allen, 14.
138 Mass. 53.
150 Mass. 231.
166 Mass. 263.

6. By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved.

Effect of payment by party secondarily liable.
1898, 533, § 121.
8 Pick. 47.
19 Pick. 117.
9 Gray, 202.
10 Gray, 339.
7 Allen, 340, 456.
98 Mass. 214.
102 Mass. 186.
107 Mass. 543, 552.
124 Mass. 506.
145 Mass. 567.
157 Mass. 175.

SECTION 138. Where the instrument is paid by a party secondarily liable thereon it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except:

1. Where it is payable to the order of a third person, and has been paid by the drawer; and

2. Where it was made or accepted for accommodation, and has been paid by the party accommodated.

Holder may renounce rights.
1898, 533, § 122.
21 Pick. 195.
22 Pick. 305.
1 Met. 276.
141 Mass. 195.

SECTION 139. The holder may expressly renounce his rights against any party to the instrument, before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation

must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

SECTION 140. A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been cancelled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

Unintentional cancellation inoperative. 1898, 533, § 123.

SECTION 141. Where a negotiable instrument is materially altered without the assent of all parties liable thereon it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

Effect of alteration. 1898, 533, § 124. 2 Met. 53. 1 Allen, 561. 98 Mass. 12. 100 Mass. 376. 112 Mass. 315. 121 Mass. 110. 123 Mass. 196. 129 Mass. 596. 133 Mass. 566.

SECTION 142. Any alteration which changes:

1. The date;
2. The sum payable, either for principal or interest; 112 Mass. 315. 121 Mass. 110.
3. The time or place of payment; 119 Mass. 269. 123 Mass. 196.
4. The number or the relations of the parties;
5. The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration. 142 Mass. 12.

Material alteration defined. 1898, 533, § 125. 1 Allen, 477, 561. 100 Mass. 376. 1 Met. 221. 2 Allen, 236. 100 Mass. 376. 108 Mass. 366. 6 Mass. 519. 11 Mass. 308. 12 Pick. 399. 13 Pick. 165. 98 Mass. 12. 131 Mass. 77.

BILLS OF EXCHANGE.

Form and Interpretation.

SECTION 143. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

Bills of exchange, form, etc. 1898, 533, § 126. 20 Pick. 132. 6 Cush. 6. 100 Mass. 12. 126 Mass. 342. 155 Mass. 374.

SECTION 144. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof and the drawee is not liable on the bill unless and until he accepts the same.

Liability of drawee. 1898, 533, § 127. 20 Pick. 15. 137 Mass. 355.

SECTION 145. A bill may be addressed to two or more drawees jointly whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Address. 1898, 533, § 128.

SECTION 146. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this commonwealth. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill the holder may treat it as an inland bill.

Inland bill of exchange. 1898, 533, § 129. 6 Mass. 157, 162. 12 Pick. 483.

SECTION 147. Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not

If drawer and drawee are same.

1898, 533, § 130. 100 Mass. 12.

having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

Referee in case of need. 1898, 533, § 131.

SECTION 148. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonored by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need, or not, as he may see fit.

Acceptance.

Acceptance of bill. 1898, 533, § 132. 7 Pick. 34. 2 Met. 53. 8 Met. 107. 115 Mass. 374. 118 Mass. 537.

SECTION 149. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money. 120 Mass. 317. 172 Mass. 569.

Acceptance written on bill, when. 1898, 533, § 133.

SECTION 150. The holder of a bill presenting the same for acceptance may require the acceptance to be written on the bill and, if such request is refused, may treat the bill as dishonored.

Written acceptance binding, when. 1898, 533, § 134. 8 Met. 107.

SECTION 151. Where an acceptance is written on a paper other than the bill itself it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

Unconditional promise, as to. 1898, 533, § 135. 3 Mass. 1. 9 Mass. 55. 2 Met. 381. 11 Met. 12.

SECTION 152. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value. 9 Cush. 53. 98 Mass. 288. 107 Mass. 41. 109 Mass. 413. 172 Mass. 569.

Time allowed drawee. 1860, 197. P. S. 77, § 17. 1895, 415, § 1. 1898, 533, § 136.

SECTION 153. The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

Destruction of bill, etc., an acceptance. 1898, 533, § 137.

SECTION 154. Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same.

Incomplete bill accepted. 1898, 533, § 138.

SECTION 155. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by non-payment. But when a bill payable after sight is dishonored by non-acceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

Acceptance general or qualified. 1898, 533, § 139.

SECTION 156. An acceptance is either general or qualified. A general acceptance accepts without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

SECTION 157. An acceptance to pay at a particular place is a general acceptance unless it expressly states that the bill is to be paid there only and not elsewhere.

General acceptance. 1898, 533, § 140.

SECTION 158. An acceptance is qualified which is:

Qualified acceptance. 1898, 533, § 141. 9 Mass. 55. 16 Mass. 341.

1. Conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;

24 Pick. 254. 11 Met. 12. 6 Cush. 6. 7 Allen, 361. 109 Mass. 413. 115 Mass. 547. 134 Mass. 331.

2. Partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

3. Local, that is to say, an acceptance to pay only at a particular place;

4. Qualified as to time;

5. The acceptance of some one or more of the drawees, but not of all.

SECTION 159. The holder may refuse to take a qualified acceptance, and, if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by non-acceptance. Where a qualified acceptance is taken the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance he must within a reasonable time express his dissent to the holder, or he will be deemed to have assented thereto.

— holder may refuse. 1898, 533, § 142.

Presentment for Acceptance.

SECTION 160. Presentment for acceptance must be made:

Presentment for acceptance. 1898, 533, § 143. 7 Gray, 217.

1. Where the bill is payable after sight, or in any other case where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

2. Where the bill expressly stipulates that it shall be presented for acceptance; or

3. Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

SECTION 161. Except as herein otherwise provided the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so the drawer and all indorsers are discharged. 98 Mass. 101.

— within reasonable time. 1898, 533, § 144. 12 Pick. 399. 5 Met. 216. 7 Gray, 217. 4 Cush. 188.

SECTION 162. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person authorized to accept or refuse acceptance on his behalf: and

— at a reasonable hour on a business day, etc. 1898, 533, § 145.

1. Where a bill is addressed to two or more drawees who are not partners presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

2. Where the drawee is dead presentment may be made to his personal representative;

3. Where the drawee has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

Presentment for acceptance, same as negotiable instrument for payment.
1895, 201.
1898, 533, § 146.

SECTION 163. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections eighty-nine and one hundred and two. When Saturday is not otherwise a holiday presentment for acceptance may be made before twelve o'clock noon on that day.

Necessary delay excused.
1898, 533, § 147.

SECTION 164. Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

Presentment excused, when.
1898, 533, § 148.

SECTION 165. Presentment for acceptance is excused and a bill may be treated as dishonored by non-acceptance, in either of the following cases:

1. Where the drawee is dead, or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

2. Where, after the exercise of reasonable diligence, presentment cannot be made;

3. Where, although presentment has been irregular, acceptance has been refused on some other ground.

Bill dishonored, when.
1898, 533, § 149.
5 Met. 216.

SECTION 166. A bill is dishonored by non-acceptance:

1. When it is duly presented for acceptance and such an acceptance as is prescribed by sections eighteen to two hundred and twelve, inclusive, is refused or cannot be obtained; or

2. When presentment for acceptance is excused and the bill is not accepted.

Right of recourse lost, when.
1898, 533, § 150.
4 Mass. 345.
7 Mass. 449.
14 Mass. 116.

SECTION 167. Where a bill is duly presented for acceptance and is not accepted within the prescribed time the person presenting it must treat the bill as dishonored by non-acceptance or he loses the right of recourse against the drawer and the indorsers.

8 Pick. 50. 12 Pick. 398. 3 Gray, 334.

—accrues to holder, when.
1898, 533, § 151.
3 Mass. 557.
8 Mass. 460.

SECTION 168. When a bill is dishonored by non-acceptance an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

Protest.

Foreign bill protested, when.
1898, 533, § 152.
6 Mass. 157.
10 Mass. 1.
12 Pick. 483.
165 Mass. 555.

SECTION 169. Where a foreign bill appearing on its face to be such is dishonored by non-acceptance it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by non-payment it must be duly protested for non-payment. If it is not so protested the

drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill protest thereof in case of dishonor is unnecessary.

SECTION 170. The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify:
1. The time and place of presentment;
2. The fact that presentment was made and the manner thereof;
3. The cause or reason for protesting the bill;
4. The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

Protest annexed to bill.
1898, 533, § 153.
6 Gray, 248.
154 Mass. 105.
102 Mass. 141.

SECTION 171. Protest may be made by:
1. A notary public; or
2. By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

—made by whom.
1898, 533, § 154.

SECTION 172. When a bill is protested such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted the protest may be subsequently extended as of the date of the noting.

—made on day of dishonor.
1895, 415, § 2.
1898, 533, § 155.

SECTION 173. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonored by non-acceptance it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

—at place where dishonored.
1898, 533, § 156.

SECTION 174. A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

Bill protested for non-payment.
1898, 533, § 157.

SECTION 175. Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

—for better security, when.
1898, 533, § 158.

SECTION 176. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

Protest dispensed with, when.
1898, 533, § 159.
6 Gray, 248.

SECTION 177. Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it protest may be made on a copy or written particulars thereof.

—made on copy, when.
1898, 533, § 160.

Acceptance for Honor.

SECTION 178. Where a bill of exchange has been protested for dishonor by non-acceptance or protested for better security and is not overdue, any person not being a party already liable thereon

Acceptance for honor.
1898, 533, § 161.

may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party there may be a further acceptance by a different person for the honor of another party.

Acceptance for honor must be in writing. 1898, 533, § 162.

SECTION 179. An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

—in honor of drawer. 1898, 533, § 163.

SECTION 180. Where an acceptance for honor does not expressly state for whose honor it is made it is deemed to be an acceptance for the honor of the drawer.

Liability of acceptor for honor. 1898, 533, § 164.

SECTION 181. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

Same subject. 1898, 533, § 165. 19 Pick. 220.

SECTION 182. The acceptor for honor by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee, and provided also, that it shall have been duly presented for payment and protested for non-payment and notice of dishonor given to him.

Maturity of bill accepted for honor. 1898, 533, § 166.

SECTION 183. Where a bill payable after sight is accepted for honor its maturity is calculated from the date of the noting for non-acceptance and not from the date of the acceptance for honor.

Bill accepted for honor protested, when. 1898, 533, § 167.

SECTION 184. Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need it must be protested for non-payment before it is presented for payment to the acceptor for honor or referee in case of need.

Presentment for payment. 1898, 533, § 168.

SECTION 185. Presentment for payment to the acceptor for honor must be made as follows:

1. If it is to be presented in the place where the protest for non-payment was made it must be presented not later than the day following its maturity;

2. If it is to be presented in some other place than the place where it was protested then it must be forwarded within the time specified in section one hundred and twenty-one.

Certain provisions to apply. 1898, 533, § 169.

SECTION 186. The provisions of section ninety-eight shall apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

Effect of dishonor of bill by acceptor for honor.

SECTION 187. When the bill is dishonored by the acceptor for honor it must be protested for non-payment by him. 1898, 533, § 170.

Payment for Honor.

Payment for honor. 1898, 533, § 171.

SECTION 188. Where a bill has been protested for non-payment any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

—attested by notarial act of honor. 1898, 533, § 172.

SECTION 189. The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

Notarial act of honor, basis. 1898, 533, § 173.

SECTION 190. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

Preference. 1898, 533, § 174.

SECTION 191. Where two or more persons offer to pay a bill for the honor of different parties the person whose payment will discharge most parties to the bill is to be given the preference.

Parties discharged, when. 1898, 533, § 175.

SECTION 192. Where a bill has been paid for honor all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

Right of recourse, lost when. 1898, 533, § 176.

SECTION 193. Where the holder of a bill refuses to receive payment supra protest he loses his right of recourse against any party who would have been discharged by such payment.

Payer for honor entitled to bill and protest. 1898, 533, § 177.

SECTION 194. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

Bills in a Set.

Bills in a set. 1898, 533, § 178.

SECTION 195. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitute one bill.

True owner. 1898, 533, § 179.

SECTION 196. Where two or more parts of a set are negotiated to different holders in due course the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Liability of indorsers. 1898, 533, § 180.

SECTION 197. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Acceptance. 1898, 533, § 181.

SECTION 198. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than

one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

Liability of acceptor.
1898, 533, § 182.

SECTION 199. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

Set discharged, when.
1898, 533, § 183.

SECTION 200. Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

PROMISSORY NOTES AND CHECKS.

Promissory note defined.
1898, 533, § 184.
11 Cush. 314.
16 Gray, 389.
108 Mass. 371.
118 Mass. 542.
126 Mass. 342.
136 Mass. 487.
141 Mass. 515.
148 Mass. 296.

SECTION 201. A negotiable promissory note within the meaning of sections eighteen to two hundred and twelve, inclusive, is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order it is not complete until indorsed by him.

Check defined.
1898, 533, § 185.
155 Mass. 374.
167 Mass. 529.

SECTION 202. A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided the provisions of sections eighteen to two hundred and twelve, inclusive, applicable to a bill of exchange payable on demand apply to a check.

—presentation.
1898, 533, § 186.
108 Mass. 514.
156 Mass. 395.

SECTION 203. A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

— certification.
1898, 533, § 187.

SECTION 204. Where a check is certified by the bank on which it is drawn the certification is equivalent to an acceptance.

Indorsers discharged, when.
1898, 533, § 188.
156 Mass. 458.
160 Mass. 401.

SECTION 205. Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

Liability of bank to holder.
1898, 533, § 189.
16 Pick. 535.
1 Gray, 605.
5 Gray, 108.
13 Allen, 445.

SECTION 206. A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder unless and until it accepts or certifies the check. 107 Mass. 45. 156 Mass. 395. 171 Mass. 534.

DEFINITIONS AND RULES.

Definitions.
1898, 533, § 191.

SECTION 207. In sections eighteen to two hundred and twelve, inclusive, unless the context otherwise requires:

152 Mass. 37.

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counter-claim and set-off.

108 Mass. 510.
165 Mass. 384.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument, complete in form to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and "writing" includes print.

Primary liability. 1898, 533, § 192.

SECTION 208. The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable.

Reasonable time defined. 1898, 533, § 193.

SECTION 209. In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business, if any, with respect to such instruments, and the facts of the particular case.

Instruments falling due on Sunday, etc. 1898, 533, § 194.

SECTION 210. Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

Non-application to certain instruments. 1898, 533, § 195.

SECTION 211. The provisions of sections eighteen to two hundred and ten, inclusive, and the following section do not apply to negotiable instruments made and delivered prior to the first day of January in the year eighteen hundred and ninety-nine.

Rules of law merchant to govern, when. 1898, 533, § 196.

SECTION 212. In any case not provided for in sections eighteen to two hundred and eleven, inclusive, the rules of the law merchant shall govern.

TITLE XIII.

CHAPTER 74.

OF THE PREVENTION OF FRAUDS AND PERJURIES.

Contracts in writing only actionable. 29 Car. II., c. 3, § 4. 1692-3, 15, § 2. 1783, 37, § 1. 1788, 16, § 1.

SECTION 1. No action shall be brought:
First, To charge an executor or administrator, or an assignee under an insolvent law of this commonwealth, upon a special promise to answer damages out of his own estate;

R. S. 74, § 1. 1848, 252. G. S. 105, § 1. P. S. 78, § 1. 1 Met. 483. 7 Met. 57. 12 Cush. 283. 5 Gray, 492. 6 Gray, 500. 116 Mass. 515. 118 Mass. 521. 123 Mass. 506. 129 Mass. 373. 134 Mass. 109. 135 Mass. 209. 153 Mass. 268.

9 Gray, 76. 13 Gray, 613.

Second, To charge a person upon a special promise to answer for the debt, default or misdoings of another;

1 Allen, 417. 11 Allen, 365. 100 Mass. 327. 105 Mass. 443. 107 Mass. 272. 108 Mass. 246. 111 Mass. 501. 116 Mass. 541. 118 Mass. 137. 124 Mass. 105. 130 Mass. 438. 134 Mass. 27, 140. 160 Mass. 166, 225. 167 Mass. 426. 172 Mass. 355. 174 Mass. 511.

132 Mass. 359. 154 Mass. 593.

Third, Upon an agreement made upon consideration of marriage;

6 Met. 319. 1 Cush. 79.

Fourth, Upon a contract for the sale of lands, tenements or hereditaments or of any interest in or concerning them; or,

9 Gray, 313. 8 Allen, 540. 11 Allen, 141. 103 Mass. 408. 110 Mass. 92. 116 Mass. 416. 124 Mass. 478. 133 Mass. 414. 137 Mass. 309. 139 Mass. 3. 162 Mass. 579. 171 Mass. 152.

11 Met. 411. 4 Cush. 42. 9 Allen, 8.

Fifth, Upon an agreement that is not to be performed within one year from the making thereof; —

11 Allen, 123. 97 Mass. 208. 118 Mass. 279. 145 Mass. 361. 151 Mass. 433. 175 Mass. 437, 536.

8 Cush. 223. 9 Gray, 397. 101 Mass. 297. 102 Mass. 204. 107 Mass. 321. 115 Mass. 256.

Unless the promise, contract or agreement upon which such action is brought, or some memorandum or note thereof, is in writing and signed by the party to be charged therewith or by some person thereunto by him lawfully authorized.

117 Mass. 96. 121 Mass. 494. 141 Mass. 372. 144 Mass. 257, 465. 153 Mass. 308, 321. 154 Mass. 257. 157 Mass. 451. 158 Mass. 113. 161 Mass. 161, 248. 165 Mass. 273. 169 Mass. 595. 174 Mass. 296.

Consideration need not be in writing. R. S. 74, § 2. G. S. 105, § 2. P. S. 78, § 2.

SECTION 2. The consideration of such promise, contract or agreement need not be set forth or expressed in the writing signed by the party to be charged therewith, but may be proved by any legal evidence. 17 Mass. 121. 4 Gray, 318.

New promise by insolvent debtor to be in writing. 1856, 18. G. S. 105, § 3. P. S. 78, § 3. 7 Cush. 462. 8 Gray, 230. 130 Mass. 14. 138 Mass. 102. 139 Mass. 12, 297, 345. 141 Mass. 16.

SECTION 3. No promise for the payment of a debt, made by an insolvent debtor who has obtained his discharge from such debt under proceedings in bankruptcy or insolvency, shall be evidence of a new or continuing contract whereby to deprive the debtor of the benefit of relying upon such discharge in bar of the recovery of a judgment upon such debt, unless such promise is made by or contained in some writing signed by him, or by some person thereunto by him lawfully authorized. 161 Mass. 16.

SECTION 4. No action shall be brought to charge a person upon or by reason of a representation or assurance made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance is made in writing and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

Representation as to another's credit to be in writing.
1834, 182, § 5.
R. S. 74, § 3.
G. S. 105, § 4.
P. S. 78, § 4.
6 Met. 246.
4 Gray, 157.
13 Gray, 285.

8 Allen, 207. 122 Mass. 189. 142 Mass. 123. 157 Mass. 1.

SECTION 5. No contract for the sale of goods, wares or merchandise, for the price of fifty dollars or more, shall be good or valid, unless the purchaser accepts and receives part of the goods so sold, or gives something in earnest to bind the bargain, or in part payment; or unless some note or memorandum in writing of the bargain is made and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

Contract for sale of goods to be in writing.
29 Car. II., c. 3, § 17.
1692-3, 15, § 7.
1788, 16, § 2.
R. S. 74, § 4.
G. S. 105, § 5.
P. S. 78, § 5.
6 Cush. 510.
129 Mass. 185.

134 Mass. 127.
165 Mass. 328.

Acceptance and receipt.
10 Met. 132.
1 Allen, 422.

13 Allen, 299, 353.
99 Mass. 185.
118 Mass. 143, 325.
123 Mass. 141.
129 Mass. 420.

Goods, wares, etc.

11 Gray, 235.
115 Mass. 450.
128 Mass. 388.
139 Mass. 492.
151 Mass. 564.
170 Mass. 380.

Earnest money.
108 Mass. 54.

Payment.
10 Gray, 212.

Memorandum.
16 Gray, 436.
9 Allen, 412, 419, 474.
132 Mass. 129.

SECTION 6. No agreement to make a will of real or personal property or to give a legacy or make a devise shall be binding unless such agreement is in writing signed by the person whose executor or administrator is sought to be charged, or by some person by him duly authorized. The provisions of this section shall not apply to any agreement made prior to the seventeenth day of May in the year eighteen hundred and eighty-eight.

Agreement to make a will, etc., to be in writing.
1888, 372.
145 Mass. 69.
154 Mass. 457.
163 Mass. 327.

SECTION 7. Every contract, written or oral, for the sale or transfer of a certificate or other evidence of debt due from the United States or from an individual state, or of stock or a share or interest in the stock of a bank, company, city or village, incorporated under a law of the United States or of an individual state, shall be void, unless the party contracting to sell or transfer the same is, at the time of making the contract, the owner or assignee thereof, or authorized by the owner or assignee or his agent to sell or transfer the certificate or other evidence of debt, share or interest so contracted for.

Contracts for sale of stocks, etc., void, when.
1836, 279.
G. S. 105, § 6.
P. S. 78, § 6.
12 Met. 428.
7 Gray, 160.
3 Allen, 238.
10 Allen, 245, 337.
103 Mass. 313.
135 Mass. 433.
141 Mass. 225.
149 Mass. 174.
151 Mass. 564.

TITLE XIV.

OF THE POLICE POWER OF THE COMMONWEALTH.

CHAPTER 75. — Of the Preservation of the Public Health.
CHAPTER 76. — Of the Registration of Physicians, Surgeons, Pharmacists and Dentists.
CHAPTER 77. — Of the Promotion of Anatomical Science.
CHAPTER 78. — Of Cemeteries and Burials.
CHAPTER 79. — Of State and Military Aid and Soldiers' Relief.
CHAPTER 80. — Of the Settlement of Paupers.
CHAPTER 81. — Of the Support of Paupers by Cities and Towns.
CHAPTER 82. — Of the Maintenance of Bastard Children.
CHAPTER 83. — Of the Protection of Infants and the Care of Pauper Children.
CHAPTER 84. — Of the State Board of Charity.
CHAPTER 85. — Of the State Hospital and the State Farm.
CHAPTER 86. — Of the Lyman School for Boys, the Industrial School for Girls and the Reformation of Juvenile Offenders.
CHAPTER 87. — Of the State Board of Insanity and Institutions for the Insane.
CHAPTER 88. — Of the Massachusetts State Sanatorium.
CHAPTER 89. — Of the State Board of Agriculture and the Dairy Bureau.
CHAPTER 90. — Of the Board of Cattle Commissioners and of Contagious Diseases of Domestic Animals.
CHAPTER 91. — Of Fisheries.
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CHAPTER 93. — Of Timber Afloat or Cast on Shore.
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CHAPTER 98. — Of the Observance of the Lord's Day.
CHAPTER 99. — Of Gaming.
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CHAPTER 101. — Of Common Nuisances.
CHAPTER 102. — Of Licenses and Municipal Regulations of Police.
CHAPTER 103. — Of the Supervision of Plumbing.
CHAPTER 104. — Of the Inspection of Buildings.
CHAPTER 105. — Of the Inspection of Steam Boilers.
CHAPTER 106. — Of the Employment of Labor.
CHAPTER 107. — Of the Bureau of Statistics of Labor and the Board of Supervisors of Statistics.
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CHAPTER 75.

OF THE PRESERVATION OF THE PUBLIC HEALTH.

SECTIONS 1–8. — State Board of Health.
SECTIONS 9–15. — City and Town Boards of Health.
SECTIONS 16–27. — Adulterated Drugs and Food.
SECTIONS 28–34. — Bakeries.
SECTIONS 35–58. — Hospitals and Dangerous Diseases.
SECTIONS 59–61. — Impure Ice.
SECTIONS 62–64. — Lying-In Hospitals.
SECTIONS 65–90. — Nuisances and Causes of Sickness.
SECTIONS 91–111. — Offensive Trades.
SECTIONS 112–130. — Pollution of Water Supply and its Sources.
SECTIONS 131–135. — Quarantine.
SECTIONS 136–139. — Vaccination.
SECTIONS 140, 141. — General Provisions.

STATE BOARD OF HEALTH.

State board of health.
1869, 420, § 1.
1879, 291, § 2.
P. S. 79, § 1.
1886, 101, § 1.
136 Mass. 578.

SECTION 1. There shall be a state board of health consisting of seven persons, one of whom shall annually be appointed by the governor, with the advice and consent of the council, for a term of seven years.

Meetings and report.
1869, 420, §§ 2, 3.
1879, 291, § 7.
P. S. 79, § 3.
1886, 101, § 2.

SECTION 2. Said board shall hold meetings at least once in each month, shall make its own by-laws and shall annually, on or before the thirty-first day of December, make a report to the governor and council for the year ending on the preceding thirtieth day of September.

Secretary.
1869, 420, § 5.
1886, 101, § 3.
1889, 370.

SECTION 3. Said board shall elect a secretary, who shall be the executive officer and shall hold office during the pleasure of the board. He shall, as directed by it, perform or superintend the work prescribed by law for the board and all other duties required by it. He shall not be ex-officio a member of the board, but the board may elect one of its members secretary pro tempore and such member may, in the absence or disability of the secretary, perform his duties. The secretary shall receive from the commonwealth an annual salary of three thousand dollars and his necessary travelling expenses incurred in the performance of his official duties. No member of the board shall receive any compensation; but the actual personal expenses of any member while engaged in his official duties, audited by the board, shall be paid by the commonwealth.

Powers and duties of board.
1869, 420, § 2.
1879, 291, § 3.
P. S. 80, § 1.
1882, 263, § 5.
1886, 101, § 4.
1888, 375, § 1.
1894, 355.
1897, 510, § 1.
1901, 104.
125 Mass. 189.

SECTION 4. Said board shall take cognizance of the interests of health and life among the citizens of the commonwealth, make sanitary investigations and inquiries relative to the causes of disease, and especially of epidemics, the sources of mortality and the effects of localities, employments, conditions and circumstances on the public health, and relative to the sale of drugs and food and the adulterations thereof; and shall gather such information relative thereto as it considers proper for diffusion among the people. It

shall advise the government relative to the location and other sanitary conditions of any public institutions; and shall have oversight of inland waters, sources of water supply and vaccine institutions. It shall annually examine all main outlets of sewers and drainage of cities and towns of the commonwealth, and the effect of sewage disposal, and shall annually report thereon to the general court, with such recommendations for the protection of the interests of persons and property and for the prevention of offensive odors and objectionable conditions as it considers expedient.

Powers and duties of board.
1882, 263, §§ 5, 7.
1884, 289, § 3.
1885, 352, § 5.

SECTION 5. In the performance of its duties relative to the sale of drugs and food it may appoint inspectors, analysts and chemists, and may remove them. Such inspectors shall have the same power and authority relative to drugs and food as is given by sections forty-two and fifty-two of chapter fifty-six, relative to milk, to the inspectors named therein. Whoever hinders, obstructs or in any way interferes with any such inspector, analyst or other officer appointed under the provisions of this section, while in the performance of his official duty, shall be punished by a fine of not more than fifty dollars for the first offence and of not more than one hundred dollars for each subsequent offence.

Expenditures authorized.
1882, 263, § 5.
1883, 263, § 1.
1884, 289, § 1.
1891, 319.

SECTION 6. The state board of health may annually expend not more than eleven thousand five hundred dollars for the enforcement of the provisions of sections sixteen to twenty-seven, inclusive; but not less than three-fifths of said amount shall be annually expended for the enforcement of the laws against the adulteration of milk and milk products.

Report of prosecutions and expenditures.
1884, 289, § 2.

SECTION 7. Said board shall annually report to the general court the number of prosecutions made under the provisions of sections sixteen to twenty-seven, inclusive, and an itemized account of the money expended in carrying out the provisions thereof.

Investigation of contagious diseases.
1879, 291, § 6.
P. S. 80, § 2.

SECTION 8. If smallpox or any other contagious or infectious disease dangerous to the public health exists or is likely to exist in any place within the commonwealth, the state board shall make an investigation thereof and of the means of preventing the spread of the disease, and shall consult thereon with the local authorities. It shall have co-ordinate powers as a board of health, in every city and town, with the board of health thereof, or with the mayor and aldermen of a city or the selectmen of a town in which there is no such board.

CITY AND TOWN BOARDS OF HEALTH.

Boards of health in cities.
1849, 211, §§ 1, 2.
G. S. 26, § 2.
1877, 133, § 1.
P. S. 80, §§ 4, 8.
1894, 174.
1895, 332.
172 Mass. 417.
173 Mass. 338.

SECTION 9. In each city except Boston the board of health shall consist of three persons, one of whom shall be a doctor of medicine and no one of whom shall be a member of the city council. Unless a different mode of appointment or election is provided in the city charter, one member shall annually in January be appointed by the mayor, subject to confirmation by the board of aldermen, for a term of three years next succeeding the first Monday in February, and if appointed under the provisions of this section, may be removed by the mayor for cause, and vacancies shall be filled by ap-

pointment for the residue of the unexpired term. Members of the board shall receive such compensation as the city council may determine. Boards of health in towns shall be chosen as provided in section three hundred and thirty-eight of chapter eleven.

Boards of health, organization, physician, etc.
1816, 44, § 7.
R. S. 21, §§ 3, 4.
G. S. 26, §§ 3, 4.
1877, 133, §§ 2, 3.
P. S. 80, §§ 5, 6, 9, 10.

SECTION 10. Every such board shall organize annually by the choice of one of its number as chairman. It may appoint a physician to the board, who shall hold his office during its pleasure, may choose a clerk who in a city shall not be a member of the board and may employ the necessary officers, agents and assistants to execute the health laws and its regulations. It may fix the salary or other compensation of such physician and of its clerk and other agents and assistants, but the amount of such compensation shall not exceed the appropriation therefor. It may make rules and regulations for its own government and for the government of its officers, agents and assistants.

—annual reports of.
1877, 133, § 4.
P. S. 80, § 11.

SECTION 11. In each city such board shall annually, in January, make a full and comprehensive report to the city council of its acts during the preceding year and of the sanitary condition of the city. It shall also, if the city council or the standing committee thereof on finance so requires, send to the auditor of the city an estimate in detail of the appropriation required by its department for the next financial year.

—annual report of deaths to.
1897, 428, § 2.

SECTION 12. The board of health in towns which have according to the latest census more than five thousand inhabitants shall send an annual report of the deaths in such town to the state board of health upon forms to be prescribed by said state board.

—agents of.
1866, 271.
1879, 75.
P. S. 80, § 16.

SECTION 13. The board of health in a city or town may appoint an agent or agents to act for it in cases of emergency or if it cannot be conveniently assembled; and any such agent shall have all the authority which the board appointing him had; but he shall in each case report his action to the board within two days for its approval, and shall be directly responsible to it and under its direction and control. An agent who is appointed to make sanitary inspections may make complaint of violations of any law, ordinance or by-law relative to the public health in a city or town.

Notice of regulations.
1816, 44, §§ 3, 11.
R. S. 21, § 8.
G. S. 26, § 6.
P. S. 80, § 19.
98 Mass. 443.

SECTION 14. The board of health of a town shall publish all regulations made by it in a newspaper of its town, or, if there is no such newspaper, shall post them up in a public place in the town. Such publication or posting shall be notice to all persons.

Retention of cases.
1874, 121, § 1.
P. S. 80, § 17.

SECTION 15. The board of health of a city or town shall, to the exclusion of the overseers of the poor, retain charge of any case arising under the provisions of this chapter in which it shall have acted.

ADULTERATED DRUGS AND FOOD.

Sale of adulterated food, etc., forbidden.
1882, 263, § 1.
1897, 344, § 1.

SECTION 16. No person shall manufacture, offer for sale or sell, within this commonwealth, any drug or article of food which is adulterated within the meaning of section eighteen.

Drugs and food defined. 1882, 263, § 2. 1886, 171. 1897, 344, § 2.

SECTION 17. The term "drug" as used in sections sixteen to twenty-seven, inclusive, shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term "food" as used therein shall include all articles, simple, mixed or compound, used in food or drink by man.

Adulteration of drugs and food defined. 1882, 263, § 3. 1884, 289, §§ 5, 7. 1897, 344, § 3. 1901, 341.

SECTION 18. A drug shall be deemed to be adulterated: 1. If, when sold under or by a name recognized in the United States pharmacopœia, it differs from the standard of strength, quality or purity prescribed therein, unless the order therefor requires an article inferior to such standard or unless such difference is made known or so appears to the purchaser at the time of the sale. 2. If, when sold under or by a name not recognized in the United States pharmacopœia but which is found in some other pharmacopœia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity prescribed in such work. 3. If its strength, quality or purity falls below the professed standard under which it is sold.

Food shall be deemed to be adulterated: 1. If any substance has been mixed with it so as to reduce, depreciate or injuriously affect its quality, strength or purity. 2. If an inferior or cheaper substance has been substituted for it wholly or in part. 3. If any valuable or necessary constituents or ingredients have been wholly or in part taken from it. 4. If it is in imitation of or is sold under the name of another article. 5. If it consists wholly or in part of a diseased, decomposed, putrid, tainted or rotten animal or vegetable substance or article, whether manufactured or not, or in case of milk, if it is produced by a diseased animal. 6. If it is colored, coated, polished or powdered in such a manner as to conceal its damaged or inferior condition, or if by any means it is made to appear better or of greater value than it is. 7. If it contains any added substance or ingredient which is poisonous or injurious to health. 8. If it contains any added antiseptic or preservative substance, except common table salt, saltpetre, cane sugar, alcohol, vinegar, spices, or, in smoked food, the natural products of the smoking process; but the provisions of this definition shall not apply to any such article if it bears a label on which the presence and the percentage of every such antiseptic or preservative substance are clearly indicated, nor shall it apply to such portions of suitable preservative substances as are used as a surface application for preserving dried fish or meat, or as exist in animal or vegetable tissues as a natural component thereof, but it shall apply to additional quantities. Said definition shall not apply during the year nineteen hundred and two to goods which were held in stock by retail dealers prior to the first day of January in said year. The provisions of this and the two preceding sections relative to food shall not apply to mixtures or compounds not injurious to health and which are recognized as ordinary articles or ingredients of articles of food, if every package sold or offered for sale is distinctly labelled as a mixture or compound with the name and per cent of each ingredient therein.

Ingredients of food to be labelled, except, etc. 1901, 396, §§ 1-3, 5.

SECTION 19. If a statement of any of the ingredients of an article of food or drink or of an article entering into food or drink is required by law to be stated upon the label of such article, such

statement and the name and address of the manufacturer or vendor of the article shall be distinctly and conspicuously printed on the label in straight, parallel lines of plain, uncondensed, legible type, well spaced on a plain ground. The statement of ingredients shall be clearly separated from and not interspersed or confused with other matter, shall specify every such ingredient by its ordinary name, and shall be in the English language. The letters of said type shall be not less than one-twelfth of an inch long, and shall be larger than those of any other printed matter on the label or package, except the name of the compound or chief article enclosed therein which may be in larger type. The required label shall be firmly attached to or printed on the exterior of the package or envelope of the said article, on the top or side thereof and in plain sight. But the state board of health may in writing approve specific labels not strictly in accordance with the above provisions, if it is of opinion that the information required by law is set forth thereon clearly enough for the reasonable protection of the purchaser. Goods labelled in violation of the provisions of this section shall be subject to the provisions of law relative to adulteration of food which is unlabelled. Goods held in stock by retail dealers prior to the first day of January in the year nineteen hundred and two shall be exempt from the provisions of this section during said year.

Samples for analysis. 1882, 263, § 6.

SECTION 20. Whoever offers or exposes for sale or delivers to a purchaser any drug or article of food shall, upon application of an inspector, analyst or other officer or agent of the state board of health and upon tender to him of the value thereof, furnish a sample sufficient for the analysis of any such drug or article of food which is in his possession.

Portion of sample to be reserved. 1884, 289, § 8.

SECTION 21. Before such sample is analyzed, a portion thereof shall be reserved and sealed by the analyst; and, upon a complaint against any person, such reserved portion shall, upon application, be delivered to the defendant or his attorney.

Grade of canned food to be marked. 1897, 344, § 4.

SECTION 22. Canned articles of food shall not be offered for sale unless they bear a mark to indicate the grade or quality thereof and the name and address of the person who packed or who sells them.

Marking of soaked canned goods. 1897, 344, § 5.

SECTION 23. All canned articles of food which have been prepared from dried products and have been soaked before canning shall be plainly marked by an adhesive label having on its face the word "*soaked*" in letters of legible type not smaller than two line pica. All cans, jugs and other packages containing maple syrup or molasses shall be plainly marked by an adhesive label having on its face the name and address of the person who made and prepared the same with the name and quality of the ingredients of the goods in letters of the size and description aforesaid.

Penalty for falsely stamping, etc., cans. 1882, 263, § 7. 1897, 344, § 6.

SECTION 24. Whoever falsely stamps or labels any cans, jars or other packages containing fruit or food of any kind, or knowingly permits such stamping or labelling, or, except as hereinafter provided, violates any of the provisions of sections sixteen to twenty-

seven, inclusive, shall be punished by a fine of not less than one hundred nor more than five hundred dollars; and whoever sells such goods so falsely stamped or labelled shall be punished by a fine of not less than ten nor more than one hundred dollars.

Penalty for adulterating food.
R. S. 131, § 12.
G. S. 166, § 3.
1878, 76.
P. S. 208, § 3.
125 Mass. 202.

SECTION 25. Whoever, for the purpose of sale, fraudulently adulterates food with any substance injurious to health, or knowingly barters, gives away, sells or has in his possession with intent to sell any substance intended for food which has been adulterated with any substance injurious to health, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year; and the articles so adulterated shall be forfeited and destroyed under the direction of the court.

— for adulterating drugs or medicines.
R. S. 131, § 3.
1853, 394.
G. S. 166, § 5.
P. S. 208, § 5.
1896, 397, § 19.

SECTION 26. Whoever, for the purpose of sale, fraudulently adulterates any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing it to be adulterated, shall be punished by a fine of not more than four hundred dollars or by imprisonment for not more than one year; and such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court.

Prosecutions as to drugs limited.
1882, 263, § 4.
1884, 289, § 5.

SECTION 27. If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States pharmacopœia, no prosecution relative to it shall be maintained until such change of standard has been published throughout the commonwealth.

BAKERIES.

Sanitation of bakeries.
1896, 418, §§ 1, 4.

SECTION 28. All buildings which are occupied as biscuit, bread or cake bakeries shall be properly drained and plumbed. They shall be provided with a proper wash room and water closets, having ventilation apart from the bake room or rooms where food products are manufactured; and no water closet, earth closet, privy or ash pit shall be within or communicate directly with the bake room of any bakery.

Construction of bake rooms.
1896, 418, § 2.

SECTION 29. Every room which is used for the manufacture of flour or meal food products shall, if required by the board of health, have an impermeable floor constructed of cement or of tiles laid in cement, and an additional floor of wood properly saturated with linseed oil. The walls and ceiling of such room shall be plastered or wainscoted, and, if required by the board of health, shall be whitewashed at least once in three months. The furniture and utensils therein shall be so arranged that they and the floor may at all times be kept clean and in good sanitary condition.

Sleeping-places regulated.
1896, 418, § 5.

SECTION 30. The sleeping-places for persons who are employed in a bakery shall be separate from the rooms in which flour or meal food products are manufactured or stored.

Storage rooms regulated.
1896, 418, § 3.

SECTION 31. The manufactured flour or meal food products shall be kept in perfectly dry and airy rooms, so arranged that the floors, shelves and all other facilities for storing the same can be easily and perfectly cleaned.

SECTION 32. The owner, agent or lessee of any property affected by the provisions of sections twenty-eight and twenty-nine shall, within sixty days after service of notice requiring any alterations to be made in such property, comply therewith. Such notice shall be in writing, and may be served upon such owner, agent or lessee personally or by mail directed to his last known address. Alterations of premises. 1896, 418, § 7.

SECTION 33. Whoever violates the provisions of the five preceding sections, or refuses to comply with any requirement of the board of health authorized therein, shall, for the first offence, be punished by a fine of not less than twenty nor more than fifty dollars; for the second offence, by a fine of not less than fifty nor more than one hundred dollars or by imprisonment for not more than ten days; for the third offence, by a fine of not less than two hundred and fifty dollars or by imprisonment for not more than thirty days or by both such fine or imprisonment. Penalties. 1896, 418, § 6.

SECTION 34. The board of health of a city or town in which a bakery is situated, or in which the business regulated by the six preceding sections is carried on, shall cause the provisions of said sections to be enforced and shall cause copies thereof to be printed and posted in all such bakeries and places of business. Board of health to enforce. 1896, 418, § 8.

HOSPITALS AND DANGEROUS DISEASES.

SECTION 35. A town may establish hospitals within its limits for the treatment of diseases which are dangerous to the public health. They shall be subject to the orders and regulations of the board of health or of a committee of the town appointed for the purpose. Hospitals. 1792, 58, § 2. R. S. 21, §§ 35, 36. G. S. 26, §§ 40, 41. P. S. 80, §§ 70, 71.

SECTION 36. The physician, nurses, attendants, patients and all persons approaching or coming within the limits of such hospitals, and all furniture and other articles used or brought there, shall be subject to the regulations of said board or committee. — physicians, etc., in, subject to board. 1792, 58, § 4. R. S. 21, § 39. G. S. 26, § 43. P. S. 80, § 74.

SECTION 37. Such hospitals shall not be established within one hundred rods of an inhabited dwelling house situated in an adjoining town, without the consent of such town. G. S. 26, § 42. P. S. 80, § 72. — situation of. 1764–5, 12, § 5. 1792, 58, § 2. R. S. 21, § 37.

SECTION 38. Whoever occupies or uses a building for a hospital in a part of a city or town prohibited by the mayor and aldermen or selectmen shall forfeit not more than fifty dollars for every month during which such offence continues, and in like proportion for a portion of the month. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain such occupancy or use. Penalty for unlawful use. 1870, 306. P. S. 80, § 73.

SECTION 39. Each city shall provide for the treatment, either in a hospital or as out patients, of indigent persons who are suffering from contagious or infectious venereal diseases. Treatment of certain disease required. 1895, 400.

SECTION 40. Each city shall establish and be constantly provided, within its limits, with one or more isolation hospitals for the reception of persons having smallpox or any other disease dangerous Isolation hospitals in cities. 1901, 171.

to the public health. Such hospitals shall be subject to the orders and regulations of the boards of health of the cities in which they are respectively situated. A city which, upon request of the state board of health, refuses or neglects to comply with the provisions of this section, shall forfeit not more than five hundred dollars for each refusal or neglect.

Discrimination against venereal diseases forbidden.
1894, 511, § 3.

SECTION 41. No discrimination shall be made against the treatment of venereal diseases in the out patient department of any general hospital supported by taxation in any city in which special hospitals, other than hospitals connected with penal institutions, are not provided for the treatment of such diseases at public expense; but said hospital may establish a separate ward for their treatment.

Board to provide hospital, etc., when.
1701–2, 9, §§ 1, 2.
1792, 58, § 5.
1797, 16, § 1.
R. S. 21, §§ 16, 17, 40.
1837, 244, §§ 1, 2.
1838, 158.
1848, 119.
G. S. 26, §§ 16, 17, 44.
P. S. 80, §§ 40, 41, 75.
137 Mass. 554.
140 Mass. 322.
162 Mass. 176.

SECTION 42. If a disease which is dangerous to the public health breaks out in a town, or if a person is infected or lately has been infected with such disease, the board shall immediately provide such hospital or place of reception, and such nurses and other assistance and necessaries, as is judged best for his accommodation and for the safety of the inhabitants, which shall be subject to the regulations of the board. The board may cause any sick or infected person to be removed thereto, if it can be done without danger to his health; otherwise the house or place in which he remains shall be considered as a hospital, and all persons residing in or in any way connected therewith shall be subject to the regulations of the board, and, if necessary, persons in the neighborhood may be removed.

Notice of infected places.
1792, 58, § 6.
R. S. 21, § 41.
1838, 158.
G. S. 26, § 45.
1873, 2, § 2.
P. S. 80, § 76.

SECTION 43. If such disease exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection, and shall give public notice of infected places to travellers by displaying red flags at proper distances and by all other means which in their judgment may be most effectual for the common safety. Whoever obstructs the selectmen, board of health or its agent in using such means, or wilfully removes, obliterates, defaces or handles such red flags or other signals shall forfeit not less than ten nor more than one hundred dollars for each offence.

Penalty for violation of regulations.
1792, 58, § 6.
R. S. 21, § 42.
1838, 158.
G. S. 26, § 46.
P. S. 80, § 77.

SECTION 44. If a physician or other person who is in any of said hospitals or places of reception, or who attends, approaches or is concerned with them, violates a regulation relative thereto, with respect to himself or to his or another person's property, he shall forfeit not less than ten nor more than one hundred dollars for each offence.

Guard on state border.
1739–40, 1, § 3.
1742–3, 17, § 3.
1797, 16, § 3.
R. S. 21, § 18.
G. S. 26, § 18.
P. S. 80, § 42.

SECTION 45. The board of health of a town near to or bordering upon an adjoining state may in writing appoint suitable persons, who shall attend at places by which travellers may pass from infected places without the commonwealth, and who may examine such travellers as the board suspects of bringing any infection dangerous to the public health, and, if necessary, restrain them from travelling until licensed thereto by the board of health of the town to which they may come. A traveller coming from an infected place, who, without such license, travels within this commonwealth, unless to return by the most direct way to the state whence he came after he

has been cautioned to depart by the persons so appointed, shall forfeit not more than one hundred dollars.

SECTION 46. A magistrate authorized to issue warrants in criminal cases may issue a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring them under the direction of the board to remove any person who is infected with contagious disease, or to impress and take up convenient houses, lodging, nurses, attendants and other necessaries.

Warrant to remove sick persons, etc. 1701–2, 9, § 3. 1742–3, 17, § 1. 1797, 16, § 4. R. S. 21, § 19. G. S. 26, § 19. 1877, 211, § 1. P. S. 80, § 43. 137 Mass. 554.

140 Mass. 322. 162 Mass. 176.

SECTION 47. If a prisoner in a jail, house of correction or workhouse has a disease which, in the opinion of the physician of the board or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, in writing, direct his removal to a hospital or other place of safety, there to be provided for and securely kept until its further order. If he recovers from the disease, he shall be returned to his former place of confinement. If the person so removed has been committed by order of court or under judicial process, the order for his removal, or a copy thereof attested by the presiding member of the board, shall be returned by him, with the doings thereon, into the office of the clerk of the court from which the process of commitment was issued. No prisoner so removed shall thereby commit an escape.

Removal of sick prisoners. 1816, 44, §§ 10,40. R. S. 21, §§ 25,26. G. S. 26, §§ 25,26. P. S. 80, §§ 49,50.

SECTION 48. An inmate of a public charitable institution or a prisoner in a penal institution who is afflicted with syphilis shall be forthwith placed under medical treatment, and, if, in the opinion of the attending physician, it is necessary, he shall be isolated until danger of contagion has passed or the physician determines that his isolation is unnecessary. If, at the expiration of his sentence, he is afflicted with syphilis in its contagious or infectious symptoms, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his discharge would be dangerous to public health, he shall be placed under medical treatment and cared for as above provided in the institution where he has been confined until, in the opinion of the attending physician, such symptoms have disappeared and his discharge will not endanger the public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the place in which he has a settlement, after notice of the expiration of his sentence and of his condition to the overseers of the poor thereof, or, if he is a state pauper, to the state board of charity.

Treatment of syphilitics. 1891, 420.

SECTION 49. A householder who knows that a person in his family or house is sick of smallpox, diphtheria, scarlet fever or any other infectious or contagious disease dangerous to the public health shall forthwith give notice thereof to the board of health of the city or town in which he dwells. Upon the death, recovery or removal of such person, the householder shall disinfect to the satisfaction of the board such rooms of his house and articles therein as, in the opinion of the board, have been exposed to infection or contagion. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

Householder to give notice of dangerous diseases. 1742–3, 17, §§ 5, 6. 1792, 58, § 7. R. S. 21, § 43. G. S. 26, § 47. P. S. 80, § 78. 1884, 98, § 1. 1890, 102.

Penalty on physician for not giving notice, etc.
1827, 129.
R. S. 21, § 44.
G. S. 26, § 48.
P. S. 80, § 79.
1884, 98, § 2.
1891, 188.

SECTION 50. If a physician knows that a person whom he is called to visit is infected with smallpox, diphtheria, scarlet fever or any other disease dangerous to the public health, he shall immediately give notice thereof in writing over his own signature to the selectmen or board of health of the town; and if he refuses or neglects to give such notice, he shall forfeit not less than fifty nor more than two hundred dollars for each offence.

Record of contagious diseases.
1884, 98, §§ 3, 4.

SECTION 51. The board of health shall keep a record, in blank books to be provided by the secretary of the commonwealth, of all reports received pursuant to the two preceding sections, which shall contain the name and location of all persons who are sick, their disease, the name of the person who reports the case and the date of such report. Said board shall give immediate information to the school committee of all contagious diseases so reported to them.

Local board to notify state board.
1883, 138, § 1.
1886, 101, § 4.
1893, 302, § 1.

SECTION 52. If the board of health of a city or town has had notice of a case of smallpox, diphtheria, scarlet fever or of any other disease dangerous to the public health therein, it shall within twenty-four hours thereafter give notice thereof to the state board of health stating the name and the location of the patient so afflicted, and the secretary thereof shall forthwith transmit a copy of such notice to the state board of charity.

Forfeiture of claim, when.
1883, 138, § 2.
1893, 302, § 2.

SECTION 53. If such board refuses or neglects to give such notice, the city or town shall forfeit its claim upon the commonwealth for the payment of expenses as provided in section fifty-seven.

Expenses, how recovered.
1849, 211, § 6.
G. S. 26, § 49.
P. S. 80, § 80.
98 Mass. 442.

SECTION 54. Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, which are recoverable of a private person or corporation, may be recovered in an action of contract.

Disposition of forfeitures.
R. S. 21, § 46.
1849, 211, § 7.
G. S. 26, § 50.
P. S. 80, § 81.
5 Cush. 408.

SECTION 55. Fines and forfeitures which are incurred under the general laws, the special laws applicable to a town, or the by-laws and regulations of a town, relative to health, shall inure to the use of such town. 153 Mass. 216.

Certain provisions not to apply to smallpox.
1836, 158.
1840, 39.
1848, 119.
G. S. 26, § 51.
1872, 189.
P. S. 80, § 82.
140 Mass. 324.

SECTION 56. The provisions of sections forty-two, forty-three, and forty-four, so far as they confer authority for the removal of patients from their homes, shall not apply to smallpox, except in cases of persons residing in boarding houses or hotels or in cases of two or more families occupying the same dwelling or in other cases in which, in the opinion of the board and the attending physician, the case cannot be properly isolated.

Expenses, how to be paid.
1701-2, 9, §§ 1, 2.
1797, 16, § 1.
1837, 244, § 1.
1848, 119.
R. S. 21, § 16.
G. S. 26, § 16.
1874, 121, § 2.
P. S. 80, §§ 40, 83.

SECTION 57. Reasonable expenses incurred by the board of health in making the provision required by law for a person infected with the smallpox or other disease dangerous to the public health shall be paid by such person, his parents or master, if able; otherwise by the town in which he has a legal settlement. If he has no settlement, they shall be paid by the commonwealth and the bills therefor shall be approved by the state board of charity.

SECTION 58. If a sheriff or other officer impresses or takes up any houses, stores, lodging or other necessaries, or impresses men, the town in which such persons or property are so impressed shall pay a just compensation to the persons entitled thereto.

Compensation for houses, etc., impressed.
R. S. 21, § 24.
G. S. 26, § 24.
P. S. 80, § 48.

IMPURE ICE.

SECTION 59. The state board of health, upon complaint in writing of not less than twenty-five consumers of ice cut from any pond or stream and sold or held for sale, alleging that said ice is impure and injurious to health, after notice to the parties interested of the time and place appointed for the hearing, and after hearing said parties, may make such orders relative to the sale of said ice as in its judgment the public health requires.

Impure ice.
1886, 287, § 1.

SECTION 60. Such orders shall be served upon any person who sells or offers for sale impure ice, and may be enforced in equity by the supreme judicial court or the superior court.

Enforcement of orders.
1886, 287, §§ 2, 3.

SECTION 61. A person who is aggrieved by such orders may appeal therefrom in the manner prescribed by section ninety-five, and shall be subject to the provisions of sections ninety-six and ninety-seven, and the court may award costs in its discretion.

Appeal.
1886, 287, § 3.

LYING-IN HOSPITALS.

SECTION 62. The selectmen of a town may issue a license, subject to revocation by them, to a person to establish or keep therein for two years, a lying-in hospital, hospital ward or other place for the reception, care and treatment of women in labor, if the board of health shall first certify to the selectmen that, in its judgment, the applicant for such license is a suitable person, and that from its inspection and examination of such hospital, hospital ward or other place aforesaid, the same is suitable for such business.

Lying-in hospitals.
1876, 157, §§ 1, 2.
P. S. 80, §§ 56, 57.

SECTION 63. Such hospital, hospital ward, or other place shall be subject to visitation and inspection at any time by the selectmen, the board of health and the chief of police, and if, during the year, it receives more than six patients, by the state board of health.

—visitation of.
1876, 157, § 3.
P. S. 80, § 58.
1886, 101, § 4.

SECTION 64. Whoever establishes or keeps or is concerned in establishing or keeping a hospital, hospital ward or other place for the purpose mentioned in section sixty-two or is engaged in any such business, without such license, shall for the first offence be punished by a fine of not more than five hundred dollars, to be equally divided between the complainant and the town; and for any subsequent offence by imprisonment for not more than two years.

Penalties for keeping hospital without license.
1876, 157, § 4.
P. S. 80, § 59.

NUISANCES AND CAUSES OF SICKNESS.

SECTION 65. The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may in its opinion be injurious to the public health, shall destroy, remove

Regulations relative to nuisances, etc.
1797, 16, §§ 3, 5, 11.
R. S. 21, §§ 5, 6, 9.

G. S. 26, §§ 5, 7. P. S. 80, §§ 18, 20. 97 Mass. 221. 125 Mass. 196. 163 Mass. 240.

or prevent the same as the case may require and shall make regulations for the public health and safety relative thereto and relative to articles which are capable of containing or conveying infection or contagion or of creating sickness which are brought into or conveyed from its town, or into or from any vessel. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

Regulations relative to house drainage. 1877, 133, § 5. 1881, 185. P. S. 80, § 12. 1889, 108.

SECTION 66. The board of health of a city, and the board of health of a town if authorized by the town, may make and enforce regulations for the public health and safety relative to house drainage and its connection with public sewers, if a public sewer abuts the estate to be drained. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

Nuisances, etc., to be abated by owner. 1797, 16, § 11. R. S. 21, § 10. 1849, 211, § 3. 1855, 369. G. S. 26, § 8. P. S. 80, § 21. 98 Mass. 431. 132 Mass. 71. 143 Mass. 113.

SECTION 67. Said board shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, source of filth or cause of sickness found thereon, within twenty-four hours, or within such other time as it considers reasonable, after notice; and the owner or occupant shall forfeit not more than twenty dollars for every day during which he knowingly violates such order.

Service of order for abatement. 1849, 211, § 4. G. S. 26, § 9. P. S. 80, § 22. 143 Mass. 113.

SECTION 68. Such order shall be in writing, and may be served personally on the owner, occupant or his authorized agent by any person authorized to serve civil process, or a copy of the order may be left at the last and usual place of abode of the owner, occupant or agent, if he is known and within the commonwealth. If the premises are unoccupied and the residence of the owner or agent is unknown or is without the commonwealth, the board may order the notice to be served by posting it on the premises and by advertising it in one or more newspapers.

Board to remove, when. 1797, 16, § 11. R. S. 21, § 11. 1849, 211, § 5. G. S. 26, § 10. P. S. 80, § 23. 98 Mass. 445.

SECTION 69. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof.

Location of privy vaults regulated. 1890, 74. 1899, 184.

SECTION 70. If the city council of a city or a town having a population of more than five thousand accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, no privy vault shall be constructed upon premises which are connected with a public or private sewer or which abut on a public or private street, court or passageway in which there is a public sewer opposite thereto, without permission in writing having first been obtained from the board of health of such city or town. And if, in the opinion of said board, a privy vault so situated is injurious to the public health, it shall declare the same to be a nuisance and shall forbid its continuance, and the provisions of the three preceding sections shall apply thereto.

Eviction from unfit dwelling. 1879, 188. G. S. 26, § 11. P. S. 80, § 24.

SECTION 71. The board, if satisfied upon examination that a building, tenement, room or cellar in its town which is occupied as a dwelling place, has become, by reason of the number of occupants,

uncleanliness or other cause, unfit for such purpose, and is liable to become a nuisance or be a cause of sickness to the occupants or to the public, may issue a notice in writing to such occupants or any of them, requiring the premises to be put into a cleanly condition, or to be vacated within such time as the board may deem reasonable. If the persons so notified neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleansed at the expense of the owner, or may remove the occupants forcibly and close up the premises, which shall not be again occupied as a dwelling place without its permission in writing. If the owner thereafter occupies or knowingly permits the same to be occupied without such permission in writing, he shall forfeit not less than ten nor more than fifty dollars.

Removal of nuisance.
1801, 16, § 3.
R. S. 21, § 12.
G. S. 26, § 12.
P. S. 80, § 25.

SECTION 72. If a person is convicted on an indictment for a common nuisance injurious to the public health, the court may order the nuisance to be removed or destroyed at the expense of the defendant, under the direction of the board of health.

Injunction of nuisance.
1827, 88.
R. S. 21, § 13.
G. S. 26, § 13.
P. S. 80, § 26.

SECTION 73. The superior court shall have jurisdiction in equity, either before or pending a prosecution for a common nuisance affecting the public health, to enjoin the maintenance of such nuisance until the matter is decided or the injunction is dissolved.

Compulsory examination of premises.
1816, 44, § 2.
R. S. 21, § 14.
G. S. 26, § 14.
1873, 2, § 1.
1877, 211, § 1.
P. S. 80, § 27.

SECTION 74. If the board considers it necessary for the preservation of life or health to enter any land, building or premises, or go on board a vessel within its town, for the purpose of examining into and destroying, removing or preventing a nuisance, source of filth or cause of sickness, and the board, or any agent thereof sent for that purpose, is refused such entry, any member of the board or such agent may make complaint to a justice of any court of record or to a magistrate authorized to issue warrants in criminal cases, who may thereupon issue a warrant, directed to the sheriff or any of his deputies, to such member or agent of the board, or to any constable of such town, commanding him to take sufficient aid and at any reasonable time repair to the place where such nuisance, source of filth or cause of sickness complained of may be, and to destroy, remove or prevent the same, under the direction of the board.

Land deemed a nuisance, when.
1868, 160, § 1.
P. S. 80, § 28.
1887, 338, § 1.
132 Mass. 71.
160 Mass. 486.
163 Mass. 240.

SECTION 75. Land which is wet, rotten, or spongy, or covered with stagnant water, so that it is offensive to residents in its vicinity or injurious to health, shall be deemed a nuisance, which the board of health of the city or town where it lies, upon petition and hearing, may abate in the manner provided in the following sections; but if the expenses of abatement will exceed two thousand dollars, such abatement shall not be made without a previous appropriation therefor.

Application for abatement.
1868, 160, § 2.
P. S. 80, § 29.

SECTION 76. Whoever is injured by such nuisance may, by petition describing the premises upon which it is alleged to exist and stating the nature of the nuisance complained of, apply to the board for its abatement; whereupon such board shall view the premises and examine into the nature and cause of such nuisance.

Application for abatement, proceedings. 1868, 160, § 3. P. S. 80, § 30. 135 Mass. 490. 166 Mass. 399.

SECTION 77. Upon such examination, if the board is of opinion that the petition should be granted, it shall appoint a time and place for a hearing, first giving reasonable notice thereof to the petitioners, to the persons whose lands it may be necessary to enter upon to abate the nuisance and to any other persons who may be damaged or benefited by the proceedings, and to the mayor or the chairman of the selectmen, unless the selectmen constitute the board of health, that they may be heard upon the necessity and mode of abating such nuisance, the question of damages and of the assessment and apportionment of the expenses of the abatement.

Form of notice and how served. 1868, 160, § 4. P. S. 80, § 31. 166 Mass. 399.

SECTION 78. Such notice shall be in writing, and may be served, of any person authorized to serve civil process, by personal service upon the mayor or chairman of the selectmen, the petitioners, the owner or occupant of any land upon which it may be necessary to enter, or which may be benefited by the abatement, or the authorized agent of such owner or occupant, or by leaving an attested copy of such notice at the last and usual place of abode of such persons; but if the land is unoccupied and the owner or agent is unknown or out of the commonwealth, the notice to such owner may be served by posting an attested copy thereof upon the premises, or by advertising in one or more newspapers in such manner and for such length of time as the board may order.

Abatement of nuisance. Damages. 1868, 160, § 5. P. S. 80, § 32. 135 Mass. 490.

SECTION 79. At the time and place appointed therefor, the board shall hear the parties, and thereafter may, in its discretion, cause such nuisance to be abated by entering upon any land and by making such excavations, embankments and drains therein and under and across any streets and ways, as may be necessary; and shall also determine in what manner and at whose expense the improvements shall be kept in repair, shall estimate and award the damage sustained by, and the benefit accruing to, any person by reason of such improvements, and what proportion of the expense of making and keeping the same in repair shall be borne by the city or town and by the persons benefited thereby. The board shall forthwith give notice of its decision, in the manner required in the preceding section, to the parties to whom notice is required to be given by section seventy-seven and to the assessors of said city or town. The expense of making and keeping such improvements in repair shall be assessed by the assessors upon the persons benefited thereby, as ascertained by said decision, shall be included in their taxes, shall be a lien upon the land benefited thereby and shall be collected in the same manner as other taxes upon land.

Appeal from adjudication of nuisance. 1887, 338, § 2.

SECTION 80. A person entitled to notice under the provisions of section seventy-seven who is aggrieved by the decision of said board or of the commissioners who may be appointed under section eighty-three that the land described in the petition is a nuisance may appeal therefrom to the superior court, if, within twenty-four hours after notice of such decision, he gives notice in writing to said board of his intention so to do and within seven days after such notice presents a petition to the superior court stating his grievance and the action of said board thereon, and enters into such recognizance as said court shall order. The superior court may hear and

determine such appeal, pending which all proceedings by the board of health relative to such nuisance shall be stayed.

Appeal from assessment. 1887, 338, § 3.

SECTION 81. Whoever is aggrieved by such decision in the award of damages or in the determination of benefits accrued or in the apportionment of the expense may, within three months after notice thereof, apply for a jury, first giving one month's notice in writing to the mayor and aldermen or selectmen of his intention so to do, and particularly specifying therein his objections to said decision. Such application for a jury shall otherwise be made in like manner and the proceedings thereon shall be the same as in case of land taken for laying out highways, except that at the trial the petitioner shall be confined to the objections specified in his notice.

Board to make return. 1868, 160, § 6. P. S. 80, § 33.

SECTION 82. The board shall, within thirty days after any such abatement, make return of its doings to the city or town clerk who shall record them in the city or town records.

Appointment of commissioners. 1868, 160, § 7. P. S. 80, § 34.

SECTION 83. If the board unreasonably refuses or neglects to proceed in the matter of said petition, the petitioner may apply to the superior court which, upon a hearing and good cause shown, may appoint three commissioners, who shall proceed in the manner hereinbefore provided.

Application to county commissioners. 1866, 211, §§ 1, 2. P. S. 80, §§ 36, 37.

SECTION 84. Whoever is aggrieved by the neglect or refusal of the board of health in a city or town to pass all proper orders abating a nuisance may apply to the county commissioners, who may hear and determine such application and exercise in such case all the powers of such board. The applicant shall, within twenty-four hours after such neglect or refusal, file with said board a written notice to the adverse party of his intention so to apply and within seven days shall present a petition to one of the county commissioners, stating the grievances complained of and the action of the board of health thereon.

Costs and expenses, how paid. 1866, 211, § 3. P. S. 80, § 38.

SECTION 85. Each commissioner, when acting under the provisions of the preceding section, shall tax three dollars a day for time and five cents a mile for travel to and from the place of meeting, which shall be paid into the county treasury; and such costs shall in the first instance be paid by the applicant, and the commissioners may award that costs of the proceeding shall be paid by any party thereto.

Removal of infected articles, etc. 1816, 44, § 12. R. S. 21, § 15.

SECTION 86. The board of health of a town may grant permits for the removal of any nuisance, infected articles or sick person within the limits of its town. G. S. 26, § 15. P. S. 80, § 39.

Warrant to secure infected articles, etc. 1751–2, 12, § 1. 1797, 16, § 5. R. S. 21, § 20. G. S. 26, § 20.

SECTION 87. If, upon the application of the board, it appears to a magistrate authorized to issue warrants that there is just cause to suspect that baggage, clothing, or goods, found within the town, are infected with any disease dangerous to the public health, he shall, by warrant directed to the sheriff or his deputy or to any constable,

1877, 211, § 1. P. S. 80, § 44.

require him to impress as many men as said magistrate may judge necessary to secure such baggage, clothing or goods, and to post said men as a guard over the house or place containing such articles to prevent persons from removing or coming near the same until due inquiry is made into the circumstances.

Warrant to take houses for safe keeping of goods. 1751-2, 12, § 3. 1797, 16, § 5. R. S. 21, § 21. G. S. 26, § 21. 1877, 211, § 1. P. S. 80, § 45.

SECTION 88. The magistrate may, by the same warrant, require the officers, under the direction of the board, to impress and take up convenient houses or stores for the safe keeping of such articles; and the board may cause them to be removed thereto or otherwise detained until, in the opinion of the board, they are freed from infection.

Officers may command aid. 1751-2, 12, §§ 1, 2. 1797, 16, § 5. R. S. 21, § 22. G. S. 26, § 22. P. S. 80, § 46.

SECTION 89. The officers, in the execution of the warrant, may command aid and may break open any house, shop or other place mentioned in the warrant where such articles are found. Whoever, being commanded by said officers to assist in the execution of the warrant, neglects or refuses so to do, shall forfeit not more than ten dollars.

Expense, how paid. 1751-2, 12, § 2. 1797, 16, § 5. R. S. 21, § 23.

SECTION 90. The expense of securing, transporting and purifying such articles, as fixed by the board, shall be paid by the owners. G. S. 26, § 23. P. S. 80, § 47.

OFFENSIVE TRADES.

Assignment of places for offensive trades. 1692-3, 23, § 1. 1696, 13. 1710-11, 8, § 1. 1785, 1, § 1. R. S. 21, § 47. 1855, 391, § 1. G. S. 26, § 52. P. S. 80, § 84. 16 Gray, 233. 8 Allen, 325. 11 Allen, 398. 97 Mass. 223. 116 Mass. 260.

SECTION 91. The board of health of a city or town shall from time to time assign certain places for the exercise of any trade or employment which is a nuisance or hurtful to the inhabitants, injurious to their estates, dangerous to the public health or is attended by noisome and injurious odors, and may prohibit the exercise thereof within the limits of the city or town or in places not so assigned. Such assignments shall be entered in the records of the city or town, and may be revoked when the board shall think proper. 125 Mass. 191. 135 Mass. 526. 151 Mass. 563.

— revocation of, by court. 1710-11, 8, § 2. 1785, 1, § 2. R. S. 21, § 48. G. S. 26, § 53. P. S. 80, § 85.

SECTION 92. If a place or building so assigned becomes a nuisance by reason of offensive odors or exhalations therefrom, or is otherwise hurtful or dangerous to the neighborhood or to travellers, the superior court may, on complaint of any person, revoke such assignment, prohibit such further use of such place or building and cause the nuisance to be removed or prevented.

Damages. 1799, 75, § 2. R. S. 21, § 49. G. S. 26, § 54. P. S. 80, § 86.

SECTION 93. Whoever is injured in the comfort or enjoyment of his estate by such nuisance may have an action of tort for the damage sustained thereby.

Orders of prohibition. 1855, 391, § 2. G. S. 26, § 55. P. S. 80, § 87. 8 Allen, 325. 11 Allen, 398. 116 Mass. 262. 135 Mass. 526. 143 Mass. 113.

SECTION 94. Orders of prohibition which may be issued under the provisions of section ninety-one shall be served upon the occupant or person having charge of the premises where such trade or employment is exercised. If he refuses or neglects for twenty-four hours thereafter to obey the same, he shall forfeit not less than fifty nor more than five hundred dollars, and the board shall take all necessary measures to prevent such exercise.

SECTION 95. Whoever is aggrieved by an order passed under the provisions of section ninety-one or one hundred and nine may, within three days after the service of the order upon him, give written notice of appeal to the board and file a petition for a jury in the superior court in the county in which the premises affected are located, and, after notice to the board, may have a trial at the bar of the court in the same manner as other civil cases are tried by jury. If, by mistake of law or fact or by accident, he fails within said three days to apply as aforesaid, and if it appears to the court that such failure was caused by such mistake or accident, and that he has not, since the service of such order upon him, violated it, he may within thirty days after the service of the order upon him apply for a jury.

Appeal from order.
1855, 391, § 3.
G. S. 26, § 56.
1865, 263.
P. S. 80, § 88.
1883, 133.
1889, 193, § 1.
11 Allen, 398.
116 Mass. 254.
125 Mass. 182, 190.
131 Mass. 197.
135 Mass. 526.

SECTION 96. Such trade or employment shall not be exercised contrary to the order while such proceedings are pending, unless specially authorized by said board, and if so specially authorized, all further proceedings by said board shall be stayed while such proceedings are pending. Upon any violation of the order, unless specially authorized as aforesaid, the proceeding shall forthwith be dismissed.

Trade not to be exercised meanwhile.
1855, 391, § 4.
G. S. 26, § 57.
P. S. 80, § 89.
1889, 193, § 1.

SECTION 97. The verdict may either alter, affirm or annul the order, and shall be returned to the court for acceptance; and if accepted, shall have the authority and effect of a valid order of the board, and may also be enforced by the court in equity.

Effect of verdict.
1855, 391, § 5.
G. S. 26, § 58.
P. S. 80, § 90.
1889, 193, § 2.
125 Mass. 194.

SECTION 98. If the order is affirmed by the verdict, the board shall recover costs to the use of the town; if it is annulled and the petitioner has not been specially authorized by said board to exercise such trade or employment during the proceedings, he shall recover damages and costs against the town; if it is annulled and the petitioner has been specially authorized as aforesaid, or if it is altered, he shall not recover damages, and the court may render judgment for costs in its discretion.

Costs.
1855, 391, § 6.
G. S. 26, § 59.
P. S. 80, § 91.
1889, 193, § 1.

SECTION 99. The proprietor of every slaughter house, canning, salting, smoking or rendering establishment, and of every establishment used for the manufacture of sausages or chopped meat of any kind, who is engaged in the slaughter of neat cattle, sheep or swine, the meat or product of which is to be sold or used for food, shall annually in April apply for a license to the mayor and aldermen of the city, the selectmen of the town or, in a town having a population of more than five thousand, to the board of health, if any, in which such slaughter house or establishment is located. The application shall be in writing, signed and sworn to by one or more of the owners or by one or more of the persons carrying on such business, or, if a corporation, by some authorized officer thereof, shall state the name and address of all the owners or persons carrying on said business, the location of the slaughter house or establishment in which said business is to be conducted, the estimated number of neat cattle, sheep or swine to be slaughtered per week, the days of the week upon which they

Slaughter houses to be licensed.
1894, 491, § 17.
1895, 496, § 3.
1897, 428, § 2.
109 Mass. 315, 320.

are to be slaughtered and the nature of the products thereof to be sold or used for food.

Issue of licenses. Fee. Record. 1894, 491, § 18. 1895, 496, § 4. 1897, 428, § 2.

SECTION 100. The mayor and aldermen, selectmen, or such other officers as they shall designate, or in a town having a population of more than five thousand, the board of health, if any, may annually issue licenses to carry on the business of slaughtering neat cattle, sheep or swine to applicants therefor. The fee for each license shall be one dollar. The license shall name the persons licensed to conduct such business, and the building or establishment in which it is to be carried on, and it shall continue in force until the first day of May of the year next ensuing, unless sooner forfeited or rendered void. A record shall be kept by the board or officers authorized to issue licenses of all applications for licenses under the provisions of the preceding section and of all licenses issued, which shall be evidence of the issue of any such license. Such board or officers shall annually, on or before the first day of June, send to the board of cattle commissioners a copy of every application made to them under the provisions of the preceding section and their action thereon, and a list of all persons with their addresses, who although engaged in the business named in the preceding section on the last day of the previous April, failed to make application for a license.

Slaughtering of cattle. 1894, 491, § 19. 1895, 496, § 5.

SECTION 101. A licensee under the provisions of the preceding section shall not slaughter any such animals, or cause them to be slaughtered at such slaughter house or establishment, on any days other than those specified in the application for such license, except in the presence of a member of the board of health or of an inspector appointed therefor by said board; but he may at any time change the days for slaughtering such animals, by giving at least seven days' written notice thereof to the board or officer authorized to issue licenses, who shall immediately give written notice of such change to such inspector of such city or town.

Duties and powers of inspectors. 1894, 491, § 20. 1895, 496, § 6.

SECTION 102. Such inspector as has been appointed by the board of health shall be present at all licensed slaughter houses or establishments upon the days designated for slaughter by the licensee, as provided in the preceding section, and there carefully examine the carcasses of all animals at the time of slaughter. Such inspection shall be made in such manner and under such rules and regulations as the board of cattle commissioners may determine and direct. If, in the opinion of an inspector, any carcass, or any meat or product thereof is diseased, corrupted, unwholesome or unfit for food, he shall seize it and cause it to be destroyed, as provided in section seventy of chapter fifty-six.

Certain carcasses to be stamped. 1901, 391, §§ 1, 2.

SECTION 103. In a slaughtering establishment wherein inspection and branding is not carried on under the rules and regulations for the inspection of live stock and other products, established by the United States department of agriculture in accordance with acts of congress in force on the fifteenth day of June in the year nineteen hundred and one, the carcasses of animals slaughtered under the provisions of the four preceding sections shall at the time of slaughter,

if not condemned, be stamped or branded by the inspector thereof in like manner as those inspected by the United States bureau of animal industry for interstate trade by a stamp or brand designed for the purpose by the board of cattle commissioners, which shall be furnished by it to the board of health of a city or town applying therefor. Such stamps shall be uniform in design throughout the commonwealth, but shall contain the name of the city or town in which they are used.

Penalty for sale of unstamped carcasses. 1901, 391, §§ 3, 4.

SECTION 104. The carcasses of animals slaughtered under the provisions of the five preceding sections and not stamped or branded as provided in the preceding section shall be deemed unfit for human food and shall not be sold or offered for sale. Whoever sells, or offers for sale, or has in his possession with intent to sell, a carcass or any part thereof required by the provisions of the preceding section to be stamped or branded, which has not been stamped or branded as therein provided, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Private slaughter houses. 1894, 491, § 21. 1895, 496, § 7.

SECTION 105. The provisions of the six preceding sections shall not apply to a person not engaged in such business, who, upon his own premises and not in a slaughter house, slaughters his own neat cattle, sheep or swine, but the carcass of any such animals shall be inspected by an inspector at the time of slaughter, unless said animal is less than six months old or has been duly inspected under the provisions of chapter ninety, within six months prior to such slaughter and a certificate of health has been delivered to the owner or person in charge thereof.

Penalties. 1894, 491, § 22. 1895, 496, § 8.

SECTION 106. Whoever violates the provisions of sections one hundred, one hundred and one, one hundred and two and one hundred and five, or, being engaged in the business of slaughtering neat cattle, sheep or swine, slaughters the same, without a license, or knowingly authorizes or causes the same to be slaughtered with intent to sell the meat or product thereof for food, or, having such license, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine without causing the carcass thereof to be inspected as provided in section one hundred and two, or whoever sells or authorizes or causes to be sold any carcass or the meat or product thereof knowing that such carcass has not been inspected according to the provisions of sections one hundred and two and one hundred and five, or whoever slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine upon his own premises other than a slaughter house or establishment mentioned in section ninety-nine, without causing the carcass of such animal to be inspected, except as provided in the preceding section, or whoever sells, or authorizes or causes to be sold, the carcass or any meat or product thereof of any such animal slaughtered upon his own premises, knowing that the same has not been inspected as provided in the preceding section, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Conviction renders license void.
1894, 491, § 23.

SECTION 107. A conviction under the provisions of the preceding section of any person licensed under the provisions of section one hundred shall render his license void, and no new license shall be granted to him for the balance of the term.

Slaughter houses, etc., as to.
1692-3, 23, § 1.
1696, 13.
1710-11, 8, § 1.
1785, 1, § 1.
R. S. 21, § 47.
1871, 167, § 1.
1874, 308.
P. S. 80, § 92.
1893, 106.
1897, 428, § 2.
109 Mass. 315, 320.
114 Mass. 353.

SECTION 108. Whoever occupies or uses a building for carrying on therein the business of slaughtering cattle, sheep or other animals, or for a melting or rendering establishment, or for other noxious or offensive trades and occupations, or permits or allows said trades or occupations to be carried on upon premises owned or occupied by him, without first obtaining the written consent and permission of the mayor and aldermen of the city and of the common council if there is such a board, or of the selectmen or, in any town having a population of more than five thousand, of the board of health, if any, of the town in which the building or premises are situated shall forfeit not more than two hundred dollars for every month he so occupies or uses such building or premises, and in like proportion for a longer or shorter time. The provisions of this section shall not apply to any building or premises which were occupied or used for said trades or occupations on the eighth day of May in the year eighteen hundred and seventy-one; but no person who used or occupied any building or premises on said date for said trades or occupations shall enlarge or extend the same without first obtaining the written consent and permission of the mayor and aldermen, and of the common council if there is such a board, or the selectmen, or, in any town having a population of more than five thousand, of the board of health, if any.

Prohibition of offensive trades.
1710-11, 8, § 2.
1785, 1, § 2.
R. S. 21, § 48.
1871, 167, § 2.
1874, 308.
P. S. 80, § 93.
1886, 101, § 4.
125 Mass. 182, 190.

SECTION 109. If any buildings or premises are so occupied or used, the state board of health shall, upon application, appoint a time and place for hearing the parties and, after due notice thereof to the party against whom the application is made and a hearing, may, if in its judgment the public health, comfort or convenience so require, order any person to desist from further carrying on said trades or occupations in such buildings or premises; and whoever thereafter continues so to occupy or use such buildings or premises shall forfeit not more than two hundred dollars for every month of such occupancy and use, and in like proportion for a shorter time.

Restraint of offensive trades.
1871, 167, § 3.
1874, 290.
P. S. 80, §§ 94, 95.

SECTION 110. The superior court shall have jurisdiction in equity to restrain the unauthorized occupancy, use or extension of any building or premises which were occupied or used for the trades or occupations aforesaid, and to enforce the orders of the state board of health issued under the provisions of the preceding section; but the provisions of this and the two preceding sections shall not impair any other remedies against nuisances.

Killing and rendering of horses, etc.
1901, 134.

SECTION 111. A person, partnership or corporation engaged in or desiring to engage in the business of killing horses, or in the carrying on of a melting or rendering establishment, shall annually, in March, apply for a license to the board of health of the city or town in which such business is to be carried on. The application shall be in writing and signed by the person or persons who de-

sire to carry on such business, or, if the applicant is a corporation, by a duly authorized officer thereof. It shall state the names in full and the addresses of all the persons who desire to carry on such business, or, if a corporation is the applicant, the names of all the officers thereof and the street or other place where the business is to be conducted. The board of health of a city or town may grant such licenses after it is satisfied that the applicants have a suitable building and plant in a situation approved by said board and that they have suitable trucks or wagons for the removal of dead animals. The license shall state the name of the licensee, the situation of the building or establishment in which the business is to be carried on, and shall continue in force until the first day of April of the year next ensuing, unless sooner revoked. The board of health shall keep a record of such licenses which are granted by it, and shall notify the board of cattle commissioners of the granting of any such license, giving the name and address of the licensee. The fee for a license shall not exceed one dollar, and a license may be revoked at any time by the board of health. Licensees shall report to the board of cattle commissioners, in such form and at such times as it may order, every animal received by them which is found to be infected with a contagious disease. No unlicensed person shall carry on the business of killing horses or of melting and rendering. So much of section twenty-five of chapter ninety as provides that no person shall knowingly sell an animal with a contagious disease shall not apply to any person who sells such animal to a licensee under the provisions of this section, if such animal is to be killed or rendered at the establishment of such licensee. Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

POLLUTION OF WATER SUPPLY AND ITS SOURCES.

Supervision of inland waters. 1886, 274, § 1. 1888, 375, § 1. 1890, 441, § 1. 1897, 510, § 1.

SECTION 112. The state board of health shall have the general oversight and care of all inland waters and of all streams and ponds used by any city, town or public institution or by any water or ice company in this commonwealth as sources of water supply and of all springs, streams and water courses tributary thereto. It shall be provided with maps, plans and documents suitable for such purposes and shall keep records of all its transactions relative thereto.

Examination of water supply. 1886, 274, § 2. 1888, 375, § 2. 1890, 441, § 1. 1897, 510, § 1.

SECTION 113. Said board may cause examinations of such waters to be made to ascertain their purity and fitness for domestic use or their liability to impair the interests of the public or of persons lawfully using them or to imperil the public health. It may make rules and regulations to prevent the pollution and to secure the sanitary protection, of all such waters as are used as sources of water supply.

Effect of publication of notice. 1899, 308.

SECTION 114. The publication of an order, rule or regulation made by the board under the provisions of the preceding section or section one hundred and eighteen in a newspaper of the city or town in which such order, rule or regulation is to take effect or, if

no newspaper is published in such city or town, the posting of a copy of such order, rule or regulation in a public place in such city or town shall be legal notice to all persons, and an affidavit of such publication or posting by the person causing such notice to be published or posted, filed and recorded with a copy of the notice, in the office of the clerk of such city or town shall be admitted as evidence of the time at which, and the place and manner in which the notice was given.

Report and recommendations. 1886, 274, §§ 1–3. 1888, 375, §§ 1–3.

SECTION 115. Said board shall annually, on or before the tenth day of January, make a report to the general court of its doings for the preceding year, recommend measures for the prevention of the pollution of such waters and for the removal of polluting substances in order to protect and develop the rights and property of the commonwealth therein and to protect the public health, and recommend any legislation or plans for systems of main sewers necessary for the preservation of the public health and for the purification and prevention of pollution of the ponds, streams and inland waters of the commonwealth. It shall also give notice to the attorney general of any violation of law relative to the pollution of water supplies and inland waters.

Agents and assistants. 1886, 274, §§ 1, 2. 1888, 375, §§ 1, 2. 1897, 510, § 2.

SECTION 116. Said board may appoint, employ and fix the compensation of such agents, clerks, servants, engineers and expert assistants as it considers necessary. Such agents and servants shall cause the provisions of law relative to the pollution of water supply and of the rules and regulations of said board to be enforced.

Advice as to methods. 1886, 274, §§ 2, 3. 1888, 375, §§ 2–4.

SECTION 117. Said board shall consult with and advise the authorities of cities and towns and persons having, or about to have, systems of water supply, drainage or sewerage as to the most appropriate source of water supply, and the best method of assuring its purity or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other cities, towns or persons which may be affected thereby. It shall also consult with and advise persons engaged or intending to engage in any manufacturing or other business whose drainage or sewage may tend to pollute any inland water as to the best method of preventing such pollution, and it may conduct experiments to determine the best methods of the purification or disposal of drainage or sewage. No person shall be required to bear the expense of such consultation, advice or experiments. Cities, towns and persons shall submit to said board for its advice their proposed system of water supply or of the disposal of drainage or sewage, and all petitions to the general court for authority to introduce a system of water supply, drainage or sewerage shall be accompanied by a copy of the recommendation and advice of said board thereon. In this section the term "drainage" means rainfall, surface and subsoil water only and "sewage" means domestic and manufacturing filth and refuse.

Removal of causes of pollution.

SECTION 118. Upon petition to said board by the mayor of a city or the selectmen of a town, the managing board or officer of

any public institution, or by a board of water commissioners, or the president of a water or ice company, stating that manure, excrement, garbage, sewage or any other matter pollutes or tends to pollute the waters of any stream, pond, spring or water course used by such city, town, institution or company as a source of water supply, the board shall appoint a time and place within the county where the nuisance or pollution is alleged to exist for a hearing, and after notice thereof to parties interested and a hearing, if in its judgment the public health so requires, shall, by an order served upon the party causing or permitting such pollution, prohibit the deposit, keeping or discharge of any such cause of pollution, and shall order him to desist therefrom and to remove any such cause of pollution; but the board shall not prohibit the cultivation and use of the soil in the ordinary methods of agriculture if no human excrement is used thereon. Said board shall not prohibit the use of any structure which was in existence on the eleventh day of June in the year eighteen hundred and ninety-seven upon a complaint made by the board of water commissioners of any city or town or by any water or ice company unless such board of water commissioners or company files with the state board a vote of its city council, selectmen or company, respectively, that such city, town or company will at its own expense make such changes in said structure or its location as said board shall deem expedient. Such vote shall be binding on such city, town or company. All damages caused by such changes shall be paid by such city, town or company; and if the parties cannot agree thereon, the damages shall, on petition of either party, filed within one year after such changes are made, be assessed by a jury in the superior court for the county where such structure is located. 1890, 441, §§ 2, 7. 1897, 510, §§ 3, 9.

SECTION 119. Whoever is aggrieved by an order passed under the provisions of the preceding section may appeal therefrom in the manner provided in sections ninety-five and ninety-seven; but such notice as the court shall order shall also be given to the board of water commissioners and mayor of the city or chairman of the selectmen of the town or president or other officer of the water or ice company interested in such order. While the appeal is pending the order of the board shall be complied with, unless otherwise authorized by the board. Appeal from order. 1890, 441, § 3. 1897, 510, § 4. 131 Mass. 197.

SECTION 120. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the state board of health or of any party interested, to enforce its orders, or the orders, rules and regulations of said board of health, and to restrain the use or occupation of the premises or such portion thereof as said board may specify, on which said material is deposited or kept, or such other cause of pollution exists, until the orders, rules and regulations of said board have been complied with. Enforcement of law. 1890, 441, § 4. 1897, 510, § 5.

SECTION 121. The agents and servants of said board may enter any building, structure or premises for the purpose of ascertaining whether sources of pollution or danger to the water supply there exist, and whether the rules, regulations and orders aforesaid are obeyed. Their compensation for services rendered in connection Entry on premises. 1897, 510, § 2.

with proceedings under the provisions of section one hundred and eighteen shall be fixed by the board and shall in the first instance be paid by the commonwealth; but the whole amount so paid shall, at the end of each year, be justly and equitably apportioned by the tax commissioner between such cities, towns or companies as, during said year, have instituted said proceedings, and may be recovered in an action by the treasurer and receiver general, with interest from the date of the demand.

Penalties.
1890, 441, § 5.
1897, 510, § 6.

SECTION 122. Whoever violates any rule, regulation or order made under the provisions of section one hundred and thirteen or one hundred and eighteen shall be punished for each offence by a fine of not more than five hundred dollars, to the use of the commonwealth, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Application of preceding sections.
1890, 441, § 6.
1897, 510, § 7.
See 1895, 488.

SECTION 123. The provisions of the eleven preceding sections shall not apply to the Merrimac or Connecticut rivers, nor to so much of the Concord river as lies within the limits of the city of Lowell, nor to springs, streams, ponds or water courses over which the metropolitan water board has control.

Sources of water supply, as to.
1878, 183, §§ 1, 2.
P. S. 80, § 96.
1896, 252, § 1.

SECTION 124. No sewage, drainage, refuse or polluting matter, of such kind and amount as either by itself or in connection with other matter will corrupt or impair the quality of the water of any pond or stream used as a source of ice or water supply by a city, town, public institution or water company for domestic use, or render it injurious to health, and no human excrement, shall be discharged into any such stream or pond, or upon their banks if any filter basin so used is there situated, or into any feeders of such pond or stream within twenty miles above the point where such supply is taken.

Prescriptive rights unaffected. Application limited.
1878, 183, § 3.
P. S. 80, § 97.
133 Mass. 215.

SECTION 125. The provisions of the preceding section shall not destroy or impair rights acquired by legislative grant prior to the first day of July in the year eighteen hundred and seventy-eight, or destroy or impair prescriptive rights of drainage or discharge, to the extent to which they lawfully existed on that date; nor shall it be applicable to the Merrimac or Connecticut rivers, or to so much of the Concord river as lies within the limits of the city of Lowell.

Injunction against pollution of water supply.
1884, 154, § 1.
1896, 252, § 2.
133 Mass. 228.
139 Mass. 183.

SECTION 126. The supreme judicial court or the superior court, upon application of the mayor of a city, the selectmen of a town, managing board or officer of a public institution, or a water or ice company interested, shall have jurisdiction in equity to enjoin the violation of the provisions of section one hundred and twenty-four.

Penalty for corrupting spring, etc.
1843, 65, § 2.
G. S. 166, § 6.
P. S. 208, § 7.

SECTION 127. Whoever wilfully and maliciously defiles or corrupts any spring or other source of water, or reservoir, or destroys or injures any pipe, conductor of water or other property pertaining to an aqueduct, or aids or abets in any such trespass, shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year.

SECTION 128. Whoever wilfully deposits excrement or foul or decaying matter in water which is used for the purpose of domestic water supply, or upon the shore thereof within five rods of the water, shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days; and a police officer or constable of a city or town in which such water is wholly or partly situated, acting within the limits of his city or town, and any executive officer or agent of a water board, board of water commissioners, public institution or water company furnishing water or ice for domestic purposes, acting upon the premises of such board, institution or company and not more than five rods from the water, may without a warrant arrest any person found in the act of violating the provisions of this section, and detain him until a complaint can be made against him therefor. But the provisions of this section shall not interfere with the sewage of a city, town or public institution, or prevent the enriching of land for agricultural purposes by the owner or occupant thereof.

Penalty for corrupting sources of water supply. 1879, 224. P. S. 208, § 8.

SECTION 129. Whoever bathes in a pond, stream or reservoir, the water of which is used for the purpose of domestic water supply for a city or town, shall be punished by a fine of not more than ten dollars.

— for bathing in public ponds. 1884, 172.

SECTION 130. Whoever, not being engaged in cutting or harvesting ice, or in hauling logs, wood or lumber, drives any animal on the ice of a pond or stream which is used for the purpose of domestic water supply for a city or town shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than thirty days.

— for driving on ice of pond used for water supply. 1880, 185. P. S. 80, §§ 101-102.

QUARANTINE.

SECTION 131. A town may establish a quarantine ground in a suitable place within its own limits; or, with the previous consent of another town, within the limits thereof. Two or more towns may in like manner join in establishing such quarantine ground for their common use.

Town may establish a quarantine ground. R. S. 21, §§ 27, 28. G. S. 26, §§ 32, 33. P. S. 80, §§ 62, 63.

SECTION 132. The board of health in a seaport town may from time to time establish the quarantine to be performed by vessels arriving within its harbor, and may make quarantine regulations for the health and safety of the inhabitants, which shall apply to all persons, goods and effects arriving in such vessels and to all persons who, for any purpose, may visit the same. Whoever violates any such regulation shall forfeit not less than five nor more than five hundred dollars.

Quarantine vessels. 1816, 44, § 6. R. S. 21, §§ 29-31. G. S. 26, §§ 34-36. P. S. 80, §§ 64-66. 98 Mass. 443. 137 Mass. 558. 144 Mass. 523.

SECTION 133. Such board may at any time cause a vessel arriving in port, if such vessel or its cargo is, in its opinion, foul or infected so as to endanger the public health, to be removed to the quarantine ground and thoroughly purified at the expense of the owners, consignees or persons in possession of the same; and may cause all persons arriving in or for any purpose visiting such vessel, or handling the cargo, to be removed to any hospital under the care of the board, there to remain under its orders.

Quarantine of suspected vessels. 1816, 44, § 6. R. S. 21, § 32. G. S. 26, § 37. P. S. 80, § 67.

Penalty for refusal to answer on oath.
1797, 16, § 9.
R. S. 21, § 33.
G. S. 26, § 38.
P. S. 80, § 68.

SECTION 134. Any person belonging to or arriving in a vessel on board of which any infection then is or has lately been, or is suspected to have been, or which has been at or has come from a port where an infectious distemper prevails which may endanger the public health, who refuses to make answer on oath, to be administered by any member of the board, to questions relating to such infection or distemper asked by the board of health of the town to which such vessel may come shall forfeit not more than two hundred dollars.

Quarantine expenses, how paid.
1816, 44, § 6.
R. S. 21, § 34.

SECTION 135. All expenses incurred on account of any person, vessel or goods which are under quarantine regulations shall be paid by the owner of such vessel.

G. S. 26, § 39. P. S. 80, § 69. 1893, 79. 120 Mass. 96. 144 Mass. 523.

VACCINATION.

Children to be vaccinated.
1855, 414, §§ 1, 3.
G. S. 26, § 27.
P. S. 80, § 51.
1894, 515, § 1.

SECTION 136. A parent or guardian who neglects to cause his child or ward to be vaccinated before the child or ward attains the age of two years, except as provided in section one hundred and thirty-nine, shall forfeit five dollars for every year during which such neglect continues.

Vaccination, board of health to enforce.
1809, 117, § 2.
R. S. 21, § 45.
1855, 414, §§ 3, 4.
G. S. 26, §§ 28, 29.
P. S. 80, §§ 52, 53.
1894, 515, §§ 3, 4.

SECTION 137. The board of health of a city or town if, in its opinion, it is necessary for the public health or safety shall require and enforce the vaccination and re-vaccination of all the inhabitants thereof and shall provide them with the means of free vaccination. Whoever, being over twenty-one years of age and not under guardianship, refuses or neglects to comply with such requirement shall forfeit five dollars.

Inmates of factories, etc., to be vaccinated.
1855, 414, §§ 5, 6.
G. S. 26, § 30.
P. S. 80, § 54.
1894, 515, § 5.
1898, 433, § 23.

SECTION 138. The board of health of a city or town in which any incorporated manufacturing company, almshouse, reform or industrial school, hospital or other establishment where the poor or sick are received, prison, jail or house of correction or any institution which is supported or aided by the commonwealth is situated may, if it decides that it is necessary for the health of the inmates or for the public safety, require the authorities of said establishment or institution, at the expense thereof, to cause all said inmates to be vaccinated.

Exemptions.
1894, 515, § 2.

SECTION 139. Children who present a certificate, signed by a registered physician that they are unfit subjects for vaccination, shall not be subject to the provisions of section six of chapter forty-four or of the three preceding sections, and their parents or guardians shall not be liable to the penalties imposed by section one hundred and thirty-six.

GENERAL PROVISIONS.

Chapter extends to cities.
G. S. 26, § 60.

SECTION 140. The provisions of this chapter shall apply to cities so far as consistent with their several charters. P. S. 80, § 106.

Enforcement of provisions of chapter.

SECTION 141. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the board

of health of a city or town, to enforce the orders of said board relative to the public health, and the provisions of sections thirty-six and thirty-seven of chapter one hundred and fifty-nine shall apply to such cases. But a jury may be summoned under the provisions of said sections if there is no sitting of the court within one month after the issues have been framed. 1893, 460, §§ 1, 2. 1899, 143.

CHAPTER 76.

OF THE REGISTRATION OF PHYSICIANS, SURGEONS, PHARMACISTS AND DENTISTS.

SECTIONS 1–9. — Registration of Physicians and Surgeons.
SECTIONS 10–23. — Registration of Pharmacists.
SECTIONS 24–29. — Registration of Dentists.

REGISTRATION OF PHYSICIANS AND SURGEONS.

SECTION 1. There shall be a board of registration in medicine consisting of seven persons, residents of this commonwealth, who shall be graduates of a legally chartered medical college or university having the power to confer degrees in medicine, and who shall have been for ten years actively employed in the practice of their profession. No member of said board shall belong to the faculty of any medical college or university, and no more than three members thereof shall at one time be members of any one chartered state medical society. One member thereof shall annually in June be appointed by the governor, with the advice and consent of the council, for a term of seven years from the first day of July following. Board of registration in medicine. 1894, 458, § 1.

SECTION 2. Said board shall hold regular meetings on the second Tuesday of March, July and November in each year, and additional meetings at such times and places as it may determine. At the regular meeting in July, it shall organize by the choice of a chairman and secretary who shall hold their offices for the term of one year. The secretary shall give a bond to the treasurer and receiver general in the penal sum of five thousand dollars, with sufficient sureties to be approved by the governor and council, for the faithful performance of his official duties. Meetings. Organization. 1894, 458, § 2.

SECTION 3. Applications for registration shall be made upon blanks to be furnished by the board, and shall be signed and sworn to by the applicants. Each applicant for registration shall furnish satisfactory proof that he is twenty-one years of age or over and of good moral character and, upon payment of a fee of twenty dollars, shall be examined by said board. If he is found by four or more members thereof to be twenty-one years of age or over, of good moral character and qualified, he shall be registered as a qualified physician and shall receive a certificate thereof signed by the chairman and secretary. An applicant who fails to pass an examination satisfactory to the board, and is therefore refused registration, shall be entitled within one year after such refusal to a re-examination at a meeting of the board called for the examination of applicants, with- Examination and registration. 1894, 458, §§ 4, 8. 1896, 230, §§ 1–3. 1897, 196. 1901, 467, § 2.

out the payment of an additional fee; but two such re-examinations shall exhaust his privilege under his original application. Said board, after hearing, may by unanimous vote revoke any certificate issued by it and cancel the registration of any physician who has been convicted of a felony or of any crime in the practice of his profession. All fees received by the board shall, once in each month, be paid by its secretary into the treasury of the commonwealth.

Compensation and expenses. 1894, 458, § 5.

SECTION 4. Each member of the board shall receive ten dollars for every day actually spent in the performance of his duties, and the necessary travelling expenses actually expended in attending the meetings of the board, not exceeding three cents a mile each way. Such compensation and the incidental and travelling expenses shall be approved by the board and paid by the commonwealth only from the fees paid over by the board.

Records. Annual report. 1894, 458, § 6.

SECTION 5. The board shall keep a record of the names of all persons registered hereunder, and of all money received and disbursed by it, and a duplicate thereof shall be open to inspection in the office of the secretary of the commonwealth. Said board shall annually, on or before the first day of January, make a report to the governor of the condition of medicine and surgery in this commonwealth, of all its official acts during the preceding year and of its receipts and disbursements.

Investigation of complaints. 1894, 458, § 7.

SECTION 6. The board shall investigate all complaints of the violation of the provisions of sections one to nine, inclusive, and report the same to the proper prosecuting officers.

Examinations. 1894, 458, § 9. 1901, 467, § 1.

SECTION 7. Examinations shall be wholly or in part in writing in the English language, shall be of a scientific and practical character, shall include the subjects of anatomy, surgery, physiology, pathology, obstetrics, gynecology, practice of medicine and hygiene, and shall be sufficiently thorough to test the applicant's fitness to practice medicine.

Penalties. 1894, 458, § 10. 1895, 412. 1896, 230, § 4. 1901, 467, § 3.

SECTION 8. Whoever, not being lawfully authorized to practice medicine within this commonwealth and registered as aforesaid, holds himself out as a practitioner of medicine, or practices or attempts to practice medicine in any of its branches, or whoever practises medicine or surgery under a false or assumed name, or under a name other than that by which he is registered, or whoever personates another practitioner of a like or different name, shall, for each offence, be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for three months, or by both such fine and imprisonment. In a case in which a provision of this or the preceding section has been violated, the person who committed the violation shall not recover compensation for services rendered.

Application limited. 1894, 458, § 11. 1901, 467, § 4.

SECTION 9. The provisions of the eight preceding sections shall not be held to discriminate against any particular school or system of medicine, to prohibit medical or surgical service in a case of emergency, or to prohibit the domestic administration of family

remedies. They shall not apply to a commissioned medical officer of the United States army, navy or marine hospital service in the performance of his official duty; to a physician or surgeon from another state who is a legal practitioner in the state in which he resides, when in actual consultation with a legal practitioner of this commonwealth; to a physician or surgeon residing in another state and legally qualified to practice therein, whose general practice extends into the border towns of this commonwealth, if such physician does not open an office or designate a place in such towns where he may meet patients or receive calls; to a physician authorized to practice medicine in another state, when he is called as the family physician to attend a person temporarily abiding in this commonwealth; nor to registered pharmacists in prescribing gratuitously, osteopathists, pharmacists, clairvoyants, or persons practicing hypnotism, magnetic healing, mind cure, massage, Christian science or cosmopathic method of healing, if they do not violate any of the provisions of section eight.

REGISTRATION OF PHARMACISTS.

Board of registration in pharmacy. 1885, 313, § 1. 1896, 397, § 1. 1899, 422, § 1.

SECTION 10. There shall be a board of registration in pharmacy consisting of five persons, residents of the commonwealth, who shall be skilled pharmacists, and shall have had ten consecutive years of practical experience in the compounding and dispensing of physician's prescriptions, and shall be actually engaged in the drug business. Not more than one member shall have any financial interest in the sale of drugs, medicines and chemicals, and the compounding and dispensing of physician's prescriptions in the same councillor district. One member of said board shall annually in September be appointed by the governor, with the advice and consent of the council, for a term of five years from the first day of October following, and no person appointed after the twenty-fifth day of June in the year eighteen hundred and ninety-nine shall serve as a member of said board for more than five consecutive years.

Organization. Meetings. 1885, 313, § 2. 1896, 397, § 2.

SECTION 11. Said board shall meet on the first Tuesday of October in each year at such time and place as it may determine, and shall organize by electing a president and secretary, who shall be members of the board and who shall hold their offices for the term of one year. The secretary shall give to the treasurer and receiver general a bond with sufficient sureties, to be approved by the governor and council, for the faithful performance of his official duties. The board shall annually hold regular meetings on the first Tuesday of January, May and October, and additional meetings at such times and places as it shall determine.

Compensation and expenses. 1885, 313, § 5. 1896, 397, § 3.

SECTION 12. Each member of the board shall receive five dollars for every day actually spent in the performance of his duties and the amount actually paid by him, not exceeding three cents a mile each way, for necessary travelling expenses in attending the meetings of the board. The bills for such compensation and his incidental and travelling expenses shall be approved by the board and paid by the commonwealth. So much of the receipts from examinations as may be necessary for the compensation and expenses of the

board may, in addition to any amount authorized by the general court, be used for such purpose.

Record and annual report. 1885, 313, § 6. 1896, 397, § 4.

SECTION 13. The board shall keep a record of the names of all persons examined and registered hereunder and of all money received and disbursed by it, and a duplicate thereof shall be open to inspection in the office of the secretary of the commonwealth. Said board shall annually, on or before the first day of January, make a report to the governor and council of the condition of pharmacy in the commonwealth, of all its official acts during the preceding year and of its receipts and disbursements.

Examination for registration. 1885, 313, § 4. 1896, 397, § 5. 1899, 422, § 2.

SECTION 14. A person who desires to do business as a pharmacist shall, upon payment of five dollars, be entitled to examination, and if found qualified shall be registered as a pharmacist and shall receive a certificate signed by the president and secretary of said board. Any person who fails to pass such examination shall upon request be re-examined after the expiration of three months at any regular meeting of the board, upon the payment of three dollars. All fees received by the board shall be paid by its secretary into the treasury of the commonwealth.

Exhibit of certificate. 1885, 313, § 8. 1896, 397, § 6.

SECTION 15. Every person who has received a certificate of registration from the board shall conspicuously display the same in his place of business.

Hearing on application and complaints. 1893, 472, §§ 1, 2. 1896, 397, §§ 7, 8. [1 Op. A. G. 499.]

SECTION 16. The board shall hear all applications by registered pharmacists for the granting of sixth class licenses, if a hearing is requested by the applicant, and all complaints made to them against any person registered as a pharmacist charging him in his business as a pharmacist with violating any of the laws of the commonwealth, the enforcement of which is under the supervision of the board of registration in pharmacy, and especially of the laws relating to the sale of intoxicating liquors; or engaging with, or aiding or abetting, another in the violation of said laws; or, if he himself is not the owner and actively engaged in such business, with suffering or permitting the use of his name or certificate of registration by others in the conduct of the business of pharmacy. Such complaint shall set out the offence alleged and be made within fifteen days after the date of the act complained of. The board shall notify the person complained against of the charge against him and of the time and place of the hearing at which he may appear with his witnesses and be heard by counsel. Three of the members of the board shall be a quorum for such hearing. Witnesses at hearings before such board shall testify under oath and may be sworn by a member of the board. The board shall have power to send for persons and compel the attendance of witnesses at said hearings.

Effect of decision. 1893, 472, § 3. 1896, 397, § 9.

SECTION 17. If the full board sitting at such hearing finds the person guilty, the board may suspend the effect of the certificate of his registration as a pharmacist for such term as the board fixes, but the license or certificate of registration of a registered pharmacist shall not be suspended for a cause punishable by law until after his conviction by a court of competent jurisdiction.

SECTION 18. Whoever, not being registered as aforesaid, retails, compounds for sale or dispenses for medicinal purposes or keeps or exposes for sale drugs, medicines, chemicals or poisons, except as provided in section twenty-three, shall be punished by a fine of not more than fifty dollars. But the provisions of this section shall not prohibit the employment of apprentices or assistants under the personal supervision of a registered pharmacist.

Penalty for unlawful sale of medicine. 1885, 313, § 9. 1893, 227. 1896, 397, § 18. 1900, 317.

SECTION 19. The board shall investigate all complaints of the violation of the provisions of sections ten to twenty-three, inclusive, and report the same to the proper prosecuting officers, and especially investigate and cause to be prosecuted all violations of sections twenty-one to twenty-nine, inclusive, of chapter one hundred.

Investigation of complaints. 1885, 313, § 7. 1893, 472, § 6. 1896, 397, § 21.

SECTION 20. The board of registration in pharmacy may annually expend not more than two thousand dollars in the performance of its official duties.

Expenditures authorized. 1893, 472, § 7. 1896, 397, § 22.

SECTION 21. A registered pharmacist against whom a complaint or charge is pending before the board, or his counsel, shall have the same right of access to documents in the possession of said board as a person who is charged with crime in the courts of the commonwealth would have to documents in the possession of the clerk of the court or of the prosecuting officer.

Access to documents. 1901, 522, § 2.

SECTION 22. The court or magistrate before whom a person is convicted of a violation of section twenty-six of chapter seventy-five, of section eighteen of this chapter, of sections twenty-five, twenty-six, twenty-seven of chapter one hundred or of section two of chapter two hundred and thirteen shall send to the board of registration in pharmacy a certificate under seal showing the time, cause and place of conviction.

Certificate of conviction of pharmacist to board. 1901, 522, § 2.

SECTION 23. The provisions of sections twenty-one to twenty-nine, inclusive, of chapter one hundred, section twenty-six of chapter seventy-five and section two of chapter two hundred and thirteen shall not apply to physicians who put up their own prescriptions or dispense medicines to their patients; nor to the sale of drugs, medicines, chemicals or poisons at wholesale only; nor to the manufacture or sale of patent and proprietary medicines; nor to the sale of non-poisonous domestic remedies usually sold by grocers and others; nor shall any unregistered member of a copartnership be liable to the penalties hereof if he retails, compounds for sale or dispenses for medicinal purposes drugs, medicines, chemicals or poisons only under the personal supervision of a registered pharmacist. The widow, executor or administrator of a registered pharmacist who has died or the wife of one who has become incapacitated may continue his business under a registered pharmacist.

Application restricted. 1885, 313, § 10. 1896, 397, § 23. 1900, 317.

REGISTRATION OF DENTISTS.

SECTION 24. There shall be a board of registration in dentistry consisting of five persons, male or female, residents of and doing business in this commonwealth, who shall be skilled dentists of

Board of registration in dentistry. 1887, 137, § 1.

good repute, shall have been regularly graduated from a reputable medical or dental college duly authorized to grant degrees in dentistry, or shall have been engaged for ten years in the practice of dentistry. No member of the board shall in any way be connected with a dental college or dental department of any college or university in which he has any pecuniary interest. The governor, with the advice and consent of the council, shall appoint one member of said board in the year nineteen hundred and two and two members in each of the years nineteen hundred and three and nineteen hundred and four, and in like manner two members shall be appointed annually, in April, except in every third year, when one shall be appointed.

Chairman and secretary. Meetings. 1887, 137, § 2.

SECTION 25. Said board shall, from its members, choose a chairman and secretary, and it shall meet at least twice in each year. Four of said board shall constitute a quorum, and the proceedings thereof shall, at all reasonable times, be open to public inspection.

Examination for registration. Fees. 1887, 137, §§ 4, 6. 1897, 187, §§ 1, 2. 1900, 294, § 1.

SECTION 26. Any person of twenty-one years of age or over, upon payment of a fee of twenty dollars, which shall not be returned to him, may be examined by said board at a regular meeting with reference to his knowledge and skill in dentistry and dental surgery; and if his examination is satisfactory to said board and he is found to possess the requisite qualifications, the board shall issue a certificate, signed by the chairman and secretary, which shall be prima facie evidence of the right of the holder to practise dentistry in this commonwealth. Such certificate, or a duplicate thereof, shall be posted by every practising dentist in a conspicuous place so that it shall be in plain view of his patients, and every person who owns or carries on a dental business shall exhibit his full name in plain readable letters in each office or room in which such business is transacted. An applicant who fails to pass a satisfactory examination shall be entitled to one re-examination at any future meeting of the board, free of charge, but for each subsequent examination, he shall pay five dollars. Said board shall annually, on or before the first day of January, make a report of its proceedings to the governor. All fees received by the board shall be paid monthly by its secretary into the treasury of the commonwealth.

Compensation and expenses of board. 1887, 137, § 7.

SECTION 27. Each member of the board shall receive five dollars for every day actually spent in the performance of his duties, and his necessary travelling expenses actually expended in attending the meetings of the board, not exceeding three cents a mile each way. Such compensation and expenses shall be approved by the board and paid by the commonwealth only from the fees paid over by the board.

Penalties. 1887, 137, §§ 5, 8. 1900, 294, § 2.

SECTION 28. Whoever falsely claims or pretends to have or hold a certificate granted by said board, or falsely and with intent to deceive claims or pretends to be a graduate from any incorporated dental college, or who performs any operation on, or makes examination of, with the intent of performing or causing to be performed any operation on, the human teeth or jaws, without obtaining a certificate as required by law, shall, for each offence, be punished

by a fine of not less than fifty nor more than one hundred dollars or by imprisonment for three months.

SECTION 29. The provisions of sections twenty-four to twenty-eight, inclusive, shall not apply to a physician registered under the provisions of this chapter, nor prevent a licensed dentist of another state from operating at a public clinic under the auspices of a duly organized and reputable dental association nor a student of a reputable chartered dental college from performing operations in the college infirmary as a part of the regular college course and in the presence, and under the actual instruction, of a registered dentist appointed as instructor. Limit of application. 1887, 137, § 9. 1900, 294, § 2.

CHAPTER 77.

OF THE PROMOTION OF ANATOMICAL SCIENCE.

SECTION 1. Upon the written application of the dean or other officer of any medical school established by law in this commonwealth, the overseers of the poor of a city or town, the trustees for children, the pauper institutions trustees, the insane hospital trustees and the penal institutions commissioner, of the city of Boston, the trustees and superintendent of the state hospital, state farm or other public institution supported in whole or in part at the public expense, except the soldiers' home in Chelsea, shall give such dean or other officer permission to take, within three days after death, the bodies of such persons who die in such town, city, city institution, state hospital, state farm or public institution as are required to be buried at the public expense, to be used within the commonwealth for the advancement of anatomical science; but such permission shall not be given to take the body of any soldier or sailor, known to be such, who served in the war of the rebellion or in the war between the United States and Spain. In giving such permission, regard shall be had to preserving as far as practicable a fair proportion between the number of students in attendance at such institutions and the number of such bodies delivered to them respectively. Disposition of dead bodies. 1830, 57, § 3. 1834, 187, § 3. R. S. 22, § 10. 1845, 242, § 1. 1855, 323, § 1. G. S. 27, § 1. 1879, 291, § 9. P. S. 81, § 1. 1891, 185, § 1; 406. 1898, 479, § 1. 1900, 333.

SECTION 2. Such dean or other officer, before receiving any such dead body, shall give to the board or officer surrendering the same to him a sufficient bond with condition that such body shall be used only for the promotion of anatomical science within this commonwealth, and in such manner as in no event to outrage the public feeling, that, after having been so used, the remains shall be decently buried, that it shall not be so used for fourteen days after death and that it shall, during said fourteen days, be kept in a condition and place to be viewed by any person, at all reasonable times, for the purpose of identification. Bond. 1830, 57, § 3. 1834, 187, § 3. R. S. 22, § 12. G. S. 27, § 2. P. S. 81, § 2. 1898, 479, § 2.

SECTION 3. If the deceased person, during his last sickness, of his own accord requests to be buried or requests that his body be delivered up to any friend, or if, within fourteen days after the death of such deceased person, any person claiming to be and satisfying When bodies are to be buried. 1830, 57, § 3. 1834, 187, § 3. R. S. 22, § 11. 1845, 242, § 2.

G. S. 27, § 4.
P. S. 81, § 4.
1891, 185, § 2.
1898, 479, § 3.

the authorities that he is a friend or is of kindred to the deceased asks to have the body buried or surrendered to himself, or if such deceased person was a stranger or traveller who suddenly died, the body shall not be given up as aforesaid; but shall, in conformity with such request, be either buried or delivered to such friend or kindred.

Dissection of body of murderer.
1784, 9, § 4.
1804, 123, § 1.
R. S. 125, § 2.
G. S. 160, § 8.
P. S. 202, § 8.

SECTION 4. Upon conviction of murder in the first degree, the court may order the body of the convict after his execution to be dissected. The sheriff shall in such case deliver it to a professor of anatomy or surgery in a medical school established by law in this commonwealth, if so requested; otherwise, he shall, unless the convict's friends desire it for interment, deliver it to any surgeon attending to receive it who will undertake to dissect it.

CHAPTER 78.

OF CEMETERIES AND BURIALS.

SECTIONS 1–9. — Cemetery and Crematory Corporations.
SECTIONS 10–20. — Public Cemeteries.
SECTIONS 21–25. — Boards of Cemetery Commissioners.
SECTIONS 26–36. — Use of Cemeteries.
SECTIONS 37–44. — Cremation and Burial.

CEMETERY AND CREMATORY CORPORATIONS.

Cemetery corporations, organization.
1841, 114, § 1.
1852, 56, §§ 1, 2.
G. S. 28, § 1.
P. S. 82, § 1.
103 Mass. 104.
168 Mass. 97.

SECTION 1. Five or more persons who are desirous of procuring, establishing and preparing a cemetery, or who are the majority in interest of the proprietors of an existing cemetery, may organize as a corporation in the manner provided in chapter one hundred and twenty-three; but such corporation shall not sell nor impair the right of any proprietor of an existing cemetery.

Powers and duties.
R. S. 38, § 7.
1841, 114, §§ 2–4.
1852, 56, § 2.
G. S. 28, § 2; 60, § 7.
1866, 104.
P. S. 82, §§ 2, 5.
146 Mass. 163.
158 Mass. 514.

SECTION 2. Such corporation shall be subject to the provisions of chapter one hundred and nine and of the first thirteen sections of chapter one hundred and twenty-three; may take and hold only so much real and personal property as may be necessary for the objects of its organization; may lay out such real property into lots; and may grant and convey the exclusive right of burial in, and of erecting tombs or cenotaphs upon, any lot and of ornamenting the same, upon such terms and conditions and subject to such regulations as it shall prescribe. The provisions of section twenty-five of chapter one hundred and ten shall apply to such corporation.

Record of conveyances of lots.
1865, 252, §§ 1, 2.
P. S. 82, § 6.
1883, 142.
1889, 290.

SECTION 3. Every cemetery corporation which is created by special charter or organized under general laws shall regularly keep books in which it shall enter all conveyances of burial lots within said cemetery and all instruments of contract relating to conveyances of such lots. Such records, and similar records made by such corporation prior to the second day of June in the year eighteen hundred and eighty-nine, shall have the same effect as if made in

the registry of deeds for the county or district in which such cemetery is situated, and no other record shall be necessary.

SECTION 4. The secretary or clerk of such corporation may give certified copies of all deeds and instruments recorded as aforesaid, and they may be used in evidence in the same manner as copies certified by the register of deeds. Certified copies as evidence. 1865, 252, § 3. P. S. 82, § 7.

SECTION 5. Such corporation may take and hold funds in trust and apply the income thereof to the improvement or embellishment of the cemetery or to the care, preservation or embellishment of any lot or its appurtenances. Trust funds. 1874, 190. P. S. 82, § 8. 153 Mass. 465. 163 Mass. 513.

SECTION 6. Such corporation may cremate bodies of the dead, and may provide the necessary buildings and appliances therefor and for the disposition of the ashes of the dead on any land within its cemetery which the state board of health determines is suitable for that purpose, and such buildings and appliances shall be a part of the cemetery and be dedicated to the burial of the dead, and shall be held by said corporations subject to the duties, and with the privileges and immunities, which they now have under general or special laws. Cremation. 1898, 437, § 1.

SECTION 7. Five or more persons may form a corporation in the manner provided in chapter one hundred and ten, with a capital of not less than six thousand nor more than fifty thousand dollars, divided into shares of a par value of either ten or fifty dollars, for the purpose of providing the necessary appliances for the disposal by cremation of the bodies of the dead; and they shall have the same powers and privileges, and be subject to the provisions of said chapter, except as hereinafter provided. Crematory corporations. 1885, 265, § 1.

SECTION 8. Such corporation may acquire by gift, devise or purchase, and hold in fee simple to an amount not exceeding fifty thousand dollars, land which is necessary and appropriate for its purposes and situated in such place as the state board of health may determine to be suitable. — may hold real estate. 1885, 265, § 2.

SECTION 9. Cemetery and crematory corporations may, subject to the approval of said board, make by-laws and regulations consistent with law for the reception and cremation of bodies of the dead and for the disposition of the ashes thereof, and shall conduct their business in accordance with such regulations as said board shall establish and furnish in writing to the clerk of the corporation. For each violation of the regulations of said board they shall forfeit not less than twenty nor more than five hundred dollars. Such corporations shall not erect, occupy or use any building for the purpose of cremation until the location and plans thereof with all details of construction have been submitted to and approved by said board or by some person designated by it. By-laws and regulations. 1885, 265, §§ 2, 3. 1898, 437, § 2.

PUBLIC CEMETERIES.

SECTION 10. Each city and town shall provide one or more suitable places for the interment of persons dying within its limits. Towns to provide burial places.

1855, 257, § 1. G. S. 28, § 4. P. S. 82, § 9. 158 Mass. 520.

Land for burial places, how taken.
1866, 112, § 1.
1877, 69, § 1.
P. S. 82, § 10.
103 Mass. 106.

SECTION 11. If there is a necessity for a new cemetery in a town, or for the enlargement of an existing cemetery in and belonging to a town, and the owner or any person interested in the land needed for either purpose refuses to sell the same, or demands therefor a price which the selectmen consider unreasonable, or is unable to convey it, the selectmen may, with the approval of the town, make application therefor by written petition to the county commissioners of the county in which the land lies.

County commissioners to appoint time and place for hearing, etc.
1866, 112, § 2.
1877, 69, § 2.
P. S. 82, § 11.

SECTION 12. The commissioners shall appoint a time and place for a hearing, and shall cause notice thereof and a copy of the petition to be served personally upon the owner, if known, or left at his place of abode, fourteen days at least before the time appointed for the hearing. If the land is held in trust or by a corporation, or if the ownership is uncertain, the commissioners shall also give notice by public advertisement or otherwise.

Hearing; adjudication, etc.
1866, 112, §§ 3, 5.
1877, 69, § 3.
P. S. 82, § 12.
103 Mass. 106.

SECTION 13. The commissioners shall hear the parties at the time and place appointed, or at an adjournment thereof, shall adjudicate upon the necessity of such taking, upon the quantity, boundaries and value of any land adjudged necessary to be taken, award the damages occasioned thereby, and shall forthwith file a description of such land and a plan thereof in the registry of deeds for the county or district in which such land lies, and thereupon such land shall be taken and held in fee by the town as a burial ground.

Compensation of commissioners.
1866, 112, § 4.
1877, 69, § 4.
P. S. 82, § 13.

SECTION 14. Each commissioner shall be paid by the town three dollars a day for each day spent in acting under the petition, and five cents a mile for travel to and from the place of hearing.

Appeal to jury.
1866, 112, § 6.
1877, 69, § 5.
P. S. 82, § 14.

SECTION 15. Whoever is aggrieved by such award of damages may, on application to the commissioners within one year, have a jury to determine his damages as in the case of assessment of damages for the laying out of highways, and all proceedings shall be conducted as in such cases. If the damages, including the value of the land, are increased by the jury, the amount allowed by the jury and all costs shall be paid by the town; otherwise, the costs shall be paid by the applicant.

Appropriations for improvements, etc.
1828, 107.
R. S. 15, § 12.
G. S. 18, § 10.
1877, 69, § 7.
P. S. 82, § 15.
103 Mass. 104.

SECTION 16. Towns may appropriate money for enclosing any cemetery provided by them according to law or for constructing paths and avenues and embellishing the grounds therein, and may establish all necessary rules relative thereto not repugnant to law. They may lay out such cemetery into lots, and shall set apart a suitable portion as a public burial place for the use of the inhabitants, free of charge. They may sell and convey to any persons, resident or non-resident, the exclusive right of burial and of erecting tombs and cenotaphs upon any lot and of ornamenting the same, upon such terms and conditions and subject to such regulations as they shall prescribe. The proceeds of such sales shall be paid into the town treasuries, be kept separate from other funds and be appropriated to reimburse the towns for the cost of the land or of its improvement and embellishment.

SECTION 17. A city or town shall not alienate or appropriate to any other use than that of a burial ground, any tract of land which has been for more than one hundred years used as a place of burial; and no portion of such burial ground shall be taken for any public use without special authority from the general court.

Ancient burial places to be preserved. 1880, 153. P. S. 82, § 16.

SECTION 18. A city or town may receive, hold and apply any funds, money or securities deposited with the treasurer thereof for the preservation, care, improvement or embellishment of any public or private burial place situated therein, or of burial lots situated in such burial places, which funds, money or securities shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or by-laws relative thereto. A city or town may pass such ordinances or by-laws, not inconsistent with law, as may be necessary for the purposes of this section, and may allow interest on such funds at a rate not exceeding six per cent a year.

Deposits for perpetual care. 1870, 225, §§ 1-3. P. S. 82, § 17. 1884, 186. 153 Mass. 465. 163 Mass. 513.

SECTION 19. Money which has been or shall be declared by an instrument in writing to be intended for the perpetual care, maintenance, improvement or embellishment of any cemetery in the commonwealth which is not owned by a corporation, or of any lots or plots therein, may be deposited with the treasurer and receiver general, who shall, in the name of the commonwealth, receive and receipt for it. The depositor shall, at the time of making such deposit, file with the treasurer and receiver general and with the secretary of the commonwealth a copy of the instrument which declares the purpose for which the money so deposited is intended to be applied.

Deposits with treasurer and receiver general. 1901, 351, §§ 1, 2.

SECTION 20. The treasurer and receiver general shall invest the money which may be deposited with him under the provisions of the preceding section, in the name of the commonwealth, in bonds or other obligations of the commonwealth or in securities in which he is authorized to invest money in behalf of the commonwealth; and, on the first day of February and August in each year, he shall pay over the accrued interest thereof to the treasurer of any unincorporated association which owns a cemetery for the care, maintenance or improvement of which, or of any lot therein, the money has been deposited with him. If such cemetery is not owned by any association, such interest shall be paid to the city or town in which the cemetery is located. At the time of paying such interest, the treasurer and receiver general shall inform the person to whom it is paid of the purpose to which it is to be applied, as stated in the copy of the instrument which is filed with him, and the person to whom it is paid shall apply it to such purpose.

Investment of deposits. Payment of interest. 1901, 351, §§ 3, 4.

BOARDS OF CEMETERY COMMISSIONERS.

SECTION 21. A town which accepts the provisions of this and the four following sections or has accepted the corresponding provisions of earlier laws may, at any town meeting, elect by ballot a board of cemetery commissioners consisting of three persons, a majority of whom shall, for at least one year previous to their election, have

Cemetery commissioners. 1890, 264, § 1.

been owners of a lot in a cemetery or other public burial ground in said town. If such board is first chosen at a meeting other than an annual town meeting, one member shall be elected for one year from the day following that fixed by law for the last preceding annual town meeting, one member for two years, and one member for three years, from said day; and annually thereafter one member so qualified shall, at the annual town meeting, be elected by ballot for a term of three years. Such boards shall choose a chairman, and a clerk who may be a member of the board.

Powers and duties. 1890, 264, §§ 1, 2.

SECTION 22. Said board shall have the sole care, superintendence and management of all public burial grounds in its town, may lay out any existing public burial grounds in its town or any land purchased and set apart by said town for cemeteries and other public burial grounds in lots or other suitable subdivisions with proper paths and avenues, may plant, embellish, ornament and fence the same and erect therein such suitable edifices and conveniences and make such improvements as it considers convenient; and, subject to the approval of the town, may make such regulations, not inconsistent with law, as it considers expedient.

Conveyance of lots. Record. 1890, 264, § 3.

SECTION 23. Said board may, by deed made and executed in such manner and form as it may prescribe, convey to any person the sole and exclusive right of burial in any lot in said cemetery and of erecting tombs, cenotaphs and other monuments or structures thereon upon such terms and conditions as its regulations prescribe. Such deeds and all subsequent deeds of such lots made by the owners thereof shall be recorded by said board in suitable books of record, which shall be open to the public at all reasonable times.

Gifts for maintenance of cemeteries. 1890, 264, § 4. 153 Mass. 465. 163 Mass. 513.

SECTION 24. A town in which cemetery commissioners are chosen may receive gifts or bequests for maintaining cemeteries or cemetery lots, which shall be paid into the town treasury of said town and, with the accounts thereof, shall be kept separate from the other money and accounts of said town. The town treasurer shall invest all such funds in accordance with the stipulations, if any, accompanying them; otherwise he shall invest them as ordered by the selectmen and said commissioners and pay the income therefrom upon their order or with their approval. The proceeds of sales of lots or rights of burial in said cemetery shall be paid into the town treasury and shall be subject to said orders.

Debt limit. 1890, 264, § 5.

SECTION 25. Said board shall not incur debts or liabilities for purposes other than aforesaid nor to an amount exceeding the amount of the funds subject to their order; and it shall annually make a report in writing to said town of its official acts, of the condition of said cemetery and burial grounds, and render an account of its receipts and expenditures for the same and of the funds subject to its order.

USE OF CEMETERIES.

Lots indivisible but inheritable. 1841, 114, § 5. G. S. 28, § 3.

SECTION 26. Lots in cemeteries incorporated under the provisions of section one, tombs in public cemeteries in cities, and lots and tombs in public cemeteries in towns, shall be held indivisible,

and upon the decease of a proprietor of such lot, the title thereto shall vest in his heirs at law or devisees subject to the following limitations and conditions: — If he leaves a widow and children they shall have the possession, care and control of said lot or tomb in common during her life. If he leaves a widow and no children, she shall have such possession, care and control during her life. If he leaves children and no widow, they shall have in common the possession, care and control of such lots or tombs during their joint lives, and the survivor of them during his life. The persons in possession, care and control of such lots or tombs may erect a monument and make other permanent improvements thereon. The widow shall have a right of permanent interment for her own body in such lot or tomb, but it may be removed therefrom to some other family lot or tomb with the consent of her heirs. If two or more persons are entitled to the possession, care and control of such lot or tomb, they shall designate in writing to the clerk of the corporation, or if it is a tomb or lot in a public cemetery, to the board of cemetery commissioners, if any, or to the city or town clerk, which of their number shall represent the lot; and in default of such designation, the board of trustees or directors of the corporation, the board of cemetery commissioners, if any, or the board of health if such lots or tombs are in public cemeteries in cities or towns, shall enter of record which of said persons shall represent the lot during such default. The widow may at any time release her right in such lot, but no conveyance or devise by any other person shall deprive her of such right.

1877, 182, § 4. P. S. 82, §§ 3, 4. 1885, 302. 1892, 165, § 1.

SECTION 27. Before entering of record the name of any person to represent such lot or tomb, the board of cemetery commissioners, if any, or the board of health of a town shall hear the parties entitled to the control thereof at such time and place as it shall have previously appointed by a notice published in a newspaper, if any, of the town; otherwise, by posting a copy in a public place therein.

Hearing as to representation. 1892, 165, § 2.

SECTION 28. A wife shall be entitled to a right of interment for her own body in any burial lot or tomb of which her husband was seised at any time during coverture, which right shall be exempt from the operation of the laws regulating conveyance, descent and devise, but which may be released by her in the same manner as dower.

Wife's right of interment. 1883, 262.

SECTION 29. A husband shall have the same rights in the tomb or burial lot of his wife as a wife has in that of her husband and may assert or release the same in the same manner as she may assert or release her rights.

Husband's right of interment. 1899, 479, § 12. 1900, 450, § 9.

SECTION 30. Except in the case of the erection or use of a tomb on private land for the exclusive use of the family of the owner, no land, other than that already so used or appropriated, shall be used for the purpose of burial, unless by permission of the town or of the mayor and aldermen of the city in which the same lies. For every interment in violation of the provisions of this section in a

Private land not to be used for burial, except, etc. 1855, 257, §§ 2–4. G. S. 28, §§ 5, 11. P. S. 82, §§ 18, 21. 99 Mass. 281. 109 Mass. 1, 21. 118 Mass. 355.

city or town in which the notice prescribed in the following section has been given, the owner of the land so used shall forfeit not less than twenty nor more than one hundred dollars.

Regulations by boards of health.
R. S. 21, §§ 7, 8.
1855, 257, §§ 5, 6.
G. S. 28, §§ 6, 7.
P. S. 82, §§ 19, 20.
1885, 278, § 1.
16 Pick. 121.
8 Cush. 68.
13 Allen, 546.

SECTION 31. Boards of health may make regulations concerning burial grounds and interments within their cities and towns; may impose penalties not exceeding one hundred dollars for a breach of such regulations; may prohibit the use by undertakers, for the purpose of speculation, of tombs as places of deposit for bodies committed to them for burial; and may close any tomb, burial ground, cemetery or other place of burial within the city or town for such time as they consider necessary for the protection of the public health. Notice of such regulations shall be given by publishing them in a newspaper, if any, of the city or town; otherwise, by posting a copy in a public place therein. Such publication shall be notice to all persons.

Notice of closing of tombs.
1855, 257, § 9.
G. S. 28, § 8.
P. S. 82, § 22.

SECTION 32. Before a tomb, burial ground or cemetery is closed by order of the board of health for more than one month, all persons interested shall have an opportunity to be heard, and personal notice of the time and place of hearing shall be given to at least one owner of the tomb, and to three at least, if there are so many, of the owners of such burial ground or cemetery, and notice shall be published for at least two successive weeks preceding such hearing in two newspapers if so many are published in the county.

Appeal from order of board.
1855, 257, § 7.
G. S. 28, § 9.
P. S. 82, § 23.

SECTION 33. The owner of a tomb who is aggrieved by the order of the board of health closing a tomb, burial ground or cemetery may, within six months after the date thereof, appeal therefrom to the superior court, first giving written notice to the board fourteen days before the entry of such appeal; but the order of the board shall remain in force until the appeal has been determined.

Trial. Costs.
1855, 257, § 7.
G. S. 28, § 10.
P. S. 82, § 24.
1885, 278, § 2.

SECTION 34. Appeals shall be tried before a jury, and if the jury find that the tomb, burial ground or cemetery so closed was not a nuisance or injurious to the public health at the time of the order and that the closing thereof was not necessary for the protection of the public health, the court shall rescind such order so far as it affects such tomb, burial ground or cemetery, and the appellant may recover the costs of the appeal from the city or town in which the tomb, burial ground or cemetery was situated. If the order is sustained, the board of health shall recover double costs, to the use of the city or town.

Ways not to be laid out over burial places.
1834, 187, § 1.
R. S. 24, §§ 59, 60.
G. S. 43, §§ 89, 90.
P. S. 82, §§ 29, 30.

SECTION 35. A highway or town way shall not be laid out or constructed in, upon or through an enclosure used or appropriated for the burial of the dead except by special authority of law or with the previous consent of the inhabitants of the town in which such enclosure is situated; or, if such enclosure belongs to private proprietors, with their previous consent.

Buildings on city burial places, as to.
G. S. 43, § 89.
1877, 182, § 6.

SECTION 36. No building shall be erected upon any burial place belonging to a city, except by special authority of law, or with the previous consent of the city council. P. S. 82, § 31.

CREMATION AND BURIAL.

SECTION 37. The body of a deceased person shall not be cremated within forty-eight hours after his decease unless death was caused by a contagious or infectious disease, and it shall not be received or cremated by any corporation organized under the provisions of section seven or the corresponding provisions of earlier laws until its officers have received the certificate or burial permit required by law before burial and a certificate from the medical examiner of the district within which the death occurred that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary.

Cremation regulated. 1885, 265, § 4. 1898, 437, § 2.

SECTION 38. No undertaker or other person shall bury a human body in a city or town, or remove therefrom a human body which has not been buried, except as provided in the following section, until he has received a permit from the board of health or its agent appointed to issue such permits, or if there is no such board, from the clerk of the city or town in which the person died; and no undertaker or other person shall exhume a human body and remove it from a city or town, or from one cemetery to another, until he has received a permit from the board of health or its agent aforesaid or from the clerk of the city or town in which the body is buried. No such permit shall be issued until there shall have been delivered to such board, agent or clerk, as the case may be, a satisfactory written statement containing the facts required by law to be returned and recorded, which statement, in case of an original interment, shall be accompanied by a satisfactory certificate of the attending physician, if any, as required by law, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if, for sufficient reasons, his certificate cannot be obtained early enough for the purpose, or is insufficient, the chairman of the board of health, if a physician, or any physician employed by said board or by the selectmen for the purpose, shall upon application make such certificate as is required of the attending physician. If death is caused by violence, the medical examiner only shall make such certificate. The board of health or its agent, upon receipt of such statement and certificate, shall forthwith countersign and transmit it to the clerk of the city or town for registration. The person to whom the permit is so given and the physician who certifies to the cause of death shall thereafter furnish for registration any other necessary information which can be obtained as to the deceased, or as to the manner or cause of the death, which the clerk or registrar may require.

Burial permits. 1878, 174. P. S. 32, § 5. 1888, 306, § 2. 1893, 263, § 2. 1897, 437, § 1.

SECTION 39. No undertaker or other person shall bury in a city or town a human body or the ashes thereof which have been brought into this commonwealth until he has received a permit so to do from the board of health or its agent appointed to issue such permits, or if there is no such board, from the clerk of the city or town in which the body is to be buried or the funeral is to be held, or from a person appointed to have the care of the cemetery or burial ground in which the interment is made, if a record is kept of the names of all persons buried therein, or from a duly appointed super-

Burial of bodies brought into commonwealth. 1897, 437, § 2.

intendent of burials in such city or town who keeps a record of interments. Such permit shall not be issued until the undertaker or other person has delivered a certificate to said board, agent, clerk, superintendent or person having such care, giving the name of the deceased, his age as nearly as can be ascertained, the cause of death, the name of the city or town in which he last resided or from which the body was brought, or, if the death occurred at sea, the name of the vessel upon which it occurred, and any other facts required for record which could be obtained with reasonable exertion. The board of health or its agent, or the superintendent or person having such care, shall, upon receipt of such certificate, forthwith countersign and transmit it to the city or town clerk; and if the deceased was a resident of said city or town, the clerk shall record the same in the books kept for recording deaths; but if the deceased was at the time of his death a resident of any other city or town within this commonwealth said clerk shall forthwith forward to the clerk thereof a copy of such certificate, who shall record the same.

Certificates requisite to burial. 1897, 437, § 3.

SECTION 40. No person having the care of a cemetery or burial ground shall permit a human body to be buried therein, or such body or the ashes thereof to be removed therefrom, until the permit for such burial or removal has been delivered to him, nor permit the ashes of a human body to be buried therein until there has been delivered to him a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Same subject. 1897, 437, § 4.

SECTION 41. An undertaker shall not bury the ashes of a human body until he has received from the person having the charge of the crematory a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Penalty. 1897, 437, § 5.

SECTION 42. Whoever violates any of the provisions of the four preceding sections shall forfeit not more than fifty dollars.

Transportation of dead bodies regulated. 1883, 124, § 2. 1887, 335. 1897, 437, § 6.

SECTION 43. No common carrier or other person shall convey or cause to be conveyed, through or from any city or town in this commonwealth, the body of any person who has died of smallpox, scarlet fever, diphtheria or typhus fever until such body has been so encased and prepared as to preclude any danger of contagion or infection by its transportation; and no city or town clerk, or clerk or agent of the board of health, shall give a permit for the removal of such body until he has received from the board of health of the city or from the selectmen of the town in which the death occurred a certificate stating the cause of death, and that said body has been prepared in the manner prescribed in this section, which certificate shall be delivered to the agent or person who receives the body. Whoever violates the provisions of this section shall forfeit not more than twenty-five dollars.

Undertaker to be licensed. 1872, 275. P. S., 32, § 6. 1897, 437, § 7.

SECTION 44. The boards of health of cities and towns shall annually, on or before the first day of May, license a suitable number of undertakers who can read and write the English language.

Such license shall be issued upon such terms and conditions as the board of health may prescribe, and may be revoked at any time by the board if its terms or conditions or any requirements of law relative thereto have been violated by the undertaker. An undertaker who has been so licensed may act in any city or town.

CHAPTER 79.

OF STATE AND MILITARY AID AND SOLDIERS' RELIEF.

SECTIONS 1, 2. — Commissioners of State Aid.
SECTIONS 3–8. — State Aid.
SECTIONS 9–11. — Military Aid.
SECTIONS 12–17. — General Provisions.
SECTIONS 18, 19. — Soldiers' Relief.
SECTIONS 20, 21. — Burial of Indigent Soldiers.
SECTIONS 22, 23. — State Pension Agent.
SECTION 24. — Bounty Money of Minors.

COMMISSIONERS OF STATE AID.

Commissioners of state aid. 1877, 192, § 7. 1879, 252, § 6. P. S. 30, § 1. 1885, 214. 1889, 279, § 9. 1892, 291. 1894, 279, § 9. 1899, 372, § 9; 374, § 6.

SECTION 1. The auditor of the commonwealth, the adjutant general and a person to be appointed by the governor, with the advice and consent of the council, with a salary to be fixed by them of not more than twenty-five hundred dollars a year, who shall devote his whole time to the duties of his office and who shall be secretary of the board, shall be commissioners of state aid and shall perform the duties required of such commissioners under the laws relative to state and military aid. Said commissioners shall investigate, so far as the interests of the commonwealth may require, all payments for state or military aid under the provisions of this chapter.

Cities, etc., may pay state and military aid. 1861, 222, § 1. 1862, 66, §§ 1–3; 151, §§ 1–3; 166, §§ 1–3. 1863, 79, §§ 1, 2; 176.

SECTION 2. A city or town may raise money, and, under the direction of the mayor and aldermen or selectmen or, in Boston, subject to the order of the aldermen thereof as to the amounts to be paid to beneficiaries, under the direction of the soldiers' relief commissioner, pay state or military aid to, or expend it for, any worthy person, subject to the following conditions.

1864, 47, §§ 1–3; 143, §§ 1, 2. 1865, 232, §§ 1, 2. 1866, 172, §§ 1, 2, 11, 12. 1867, 136, § 6. 1868, 107. 1870, 339, § 1. 1872, 324. 1874, 330. 1877, 192, §§ 1, 6, 10. 1878, 282, § 1. 1879, 252, § 1; 301, § 1. P. S. 30, § 2. 1889, 279, § 1; 301, § 1. 1894, 279, § 1; 301, § 1. 1897, 441. 1899, 372, §§ 1, 13; 374, §§ 1, 10. 138 Mass. 256. 160 Mass. 503.

STATE AID.

Payment of state aid. 1861, 222, § 1. 1862, 66, §§ 1–3, 6; 151, §§ 1–3; 166, §§ 1–3. 1863, 79, §§ 1, 2, 4; 176. 1864, 47, §§ 1–3; 143, §§ 1, 2. 1865, 232, §§ 1, 2; 251, § 1.

SECTION 3. A recipient of state aid shall have a residence, and shall actually reside, in the city or town from which such aid is received, shall not receive aid from any other city or town in the commonwealth nor from any other state, shall be in such needy circumstances as to require public assistance and shall belong to one of the following classes: —

1866, 172, §§ 1, 2, 10; 283, § 5. 1867, 136, §§ 1, 2, 8. 1871, 299. 1876, 219. 1877, 192, § 1. 1879, 252, § 2; 301, § 1. P. S. 30, § 2. 1885, 173. 1886, 39. 1889, 301, § 1. Res. 1892, 84. 1894, 301, § 1. 1895, 361, §§ 1, 3. 1897, 441. 1898, 561, §§ 3, 4, 11. 1899, 372, §§ 1, 2, 13; 374, §§ 1, 2, 10.

First class.

First Class, Invalid pensioners of the United States who served in the army or navy of the United States to the credit of this commonwealth either in the civil war between the nineteenth day of April in the year eighteen hundred and sixty-one and the first day of September in the year eighteen hundred and sixty-five, or in the war with Spain, which for the purposes of this chapter, shall be defined as having begun on the fifteenth day of February in the year eighteen hundred and ninety-eight and as having ended on the twelfth day of August in said year; — or who served in such army or navy in the military organizations of this commonwealth known as three months' men, ninety days' men, or one hundred days' men, mustered into the service of the United States in April, May, June or July in the year eighteen hundred and sixty-one, or in April, May, July or August in the year eighteen hundred and sixty-four; — or who, having their residence and actually residing in this commonwealth at the time of their enlistment, either served to the credit of any other state in such army or navy, between the nineteenth day of April in the year eighteen hundred and sixty-one and the eighteenth day of March in the year eighteen hundred and sixty-two, or served in such army or navy, having been mustered into the service of the United States, at some time between the first day of May and the first day of October in the year eighteen hundred and sixty-two, while having a residence and actually living in this commonwealth and while a member of one of the organizations of the volunteer militia known as the Boston cadets, the Salem cadets, the eighth battery of light artillery, or Company B of the seventh regiment of infantry; — or who served in such navy, being one of the persons included in the list of officers, sailors and marines, prepared by the adjutant general in accordance with chapter fifteen of the resolves of the year eighteen hundred and seventy-five and chapter eight of the resolves of the year eighteen hundred and eighty, having been appointed or mustered into and having served in such naval service of the United States while an actual resident of this commonwealth; — or who served in the regular army or navy of the United States either in the civil war or in the war with Spain, having been appointed or having enlisted in said army while a citizen of this commonwealth, having a residence and actually residing therein; which pensioners have been honorably discharged from their said service in the army or navy and from all appointments and enlistments therein and are so far disabled by such service as to prevent them from following their usual vocations.

Second class. [1 Op. A. G. 575.]

Second Class, Dependent relatives of soldiers or sailors who have served in the manner and under the limitations described for the service of said invalid pensioners, and who, if they did not continue in the service of the United States awaiting discharge upon the official proclamation ending the war with Spain or did not die in the service above defined for invalid pensioners, were honorably discharged therefrom, as follows: — The wives and widowed mothers of said invalid pensioners who served in the civil war, and the widows and widowed mothers of soldiers or sailors dying in such service or after their honorable discharge therefrom, and the widows, children and widowed mothers of soldiers or sailors who served in the war with Spain, dying in such service at any time previous to said official proclamation or dying after their honorable

discharge therefrom of wounds or disease incurred in such service, or dying while in receipt of a pension of the United States and the state aid of this commonwealth, and the wives, children and widowed mothers of said invalid pensioners who served in the war with Spain. Such children shall not be more than fourteen years of age, and shall have been born prior to their father's discharge from such service and prior to the date of said proclamation.

Third class. 1894, 301, § 1.

Third Class, Dependent wives, widows and widowed mothers of soldiers or sailors who served in either of said wars in the manner required of said invalid pensioners who appear on the rolls of their regiments or companies in the office of the adjutant general to be missing or to have been captured by the enemy and who have not been exchanged or returned from captivity, and whom the city or town officers granting such aid have no good reason to believe to be alive, and the dependent children of such soldiers and sailors who would be entitled to receive aid in the second class if their fathers had been invalid pensioners because of service in the war with Spain.

Fourth class. 1897, 441.

Fourth Class, Recipients of state aid as dependent fathers or mothers prior to the eleventh day of April in the year eighteen hundred and sixty-seven who were precluded from its receipt thereafter by the provisions of chapter one hundred and thirty-six of the acts of the year eighteen hundred and sixty-seven; also fathers or mothers, the fathers being living, of soldiers or sailors who served in the war with Spain, in the manner and under the limitations described for the service of said invalid pensioners and who died in such service, if such parents were receiving aid on the eighteenth day of May in the year eighteen hundred and ninety-nine. No aid shall be granted to persons of this class unless in each case the mayor and aldermen, selectmen or, in Boston, the soldiers' relief commissioner are satisfied, on evidence first reported to the commissioners of state aid and satisfactory to them, that justice and necessity require a continuance of the aid to prevent actual suffering.

Fifth class. 1895, 361, §§ 1, 3.

Fifth Class, Women who were appointed as nurses by the proper authorities of the United States or by the governor of this commonwealth and served as such for not less than three months in the army hospitals of the United States between the nineteenth day of April in the year eighteen hundred and sixty-one and the first day of September in the year eighteen hundred and sixty-five, and were honorably discharged from such service, who, for three consecutive years next prior to the date of application for aid, shall have been actually resident in this commonwealth and who shall not be in receipt of an annuity from this commonwealth; if the municipal authorities are satisfied, on evidence first reported to and found satisfactory by the commissioners of state aid, that justice and necessity require the granting thereof. The amount of such aid and its duration shall be determined by the commissioners of state aid.

Restrictions as to wife or widow. 1866, 172, § 3. 1879, 301, § 2. R. S. 30, § 3. 1885, 204. 1887, 122. 1889, 301, § 2.

SECTION 4. A wife or widow of a discharged soldier or sailor shall not be held to belong to any of the foregoing classes nor receive state aid unless, if the service of the soldier or sailor was in the war with Spain, she was married to him before his final discharge from such service and before the eighteenth day of May in

1894, 301, § 2.
1899, 374, § 2.

the year eighteen hundred and ninety-nine, and if his service was in the civil war, unless she was, if his wife, married to him prior to his final discharge from such service, and if his widow, prior to the ninth day of April in the year eighteen hundred and eighty. The words "pensioner", "soldier" and "sailor" as used in this chapter shall be held to include a commissioned officer, and the word "sailor" shall be held to include a marine.

Classification of beneficiaries.
1879, 301, § 3.
P. S. 30, §§ 4, 9.
1889, 301, § 3.
1894, 301, § 3.
1899, 374, § 3.

SECTION 5. Of the persons specifically designated and to or for whom state aid is paid under any special act or resolve passed after the first day of June in the year eighteen hundred and seventy-nine, or to or for whom state aid was then being paid under any special act or resolve then repealed, all soldiers and sailors shall be held to belong to the first class, and all dependent relatives of soldiers and sailors to the second class, of section three, notwithstanding the limitations of such classes; and state aid may be paid to or for such persons in the same manner and with the same limitations as it is paid to or for other persons of their respective classes; but no aid shall be paid to or for any person under the provisions of this section contrary to any limitation or condition of the original special act or resolve authorizing state aid to be paid to or for him.

Limit of amounts payable.
1879, 301, § 4.
P. S. 30, § 5.
1889, 301, § 4.
1894, 301, § 4.
1895, 361, § 2.
1898, 561, §§ 3, 4.
1899, 374, § 2.

SECTION 6. No state aid shall be paid to or for a person of the first class of section three exceeding in any one month three-fourths of the monthly amount of his pension, nor exceeding six dollars in any one month; or to or for a person of the second, third, fourth or fifth class of said section exceeding four dollars in any one month; and no more than eight dollars shall be paid to or for all the dependent relatives of any one soldier or sailor in any one month. State aid shall not be paid to or for any soldier or sailor on account of service in the war with Spain, or to his dependent relatives, unless he enlisted or was appointed in the service of the United States after the fourteenth day of February and prior to the twelfth day of August in the year eighteen hundred ninety-eight; but it may be allowed to or for volunteers mustered into the service of the United States in Massachusetts regiments after said twelfth day of August but prior to the first day of January in the year eighteen hundred and ninety-nine who shall otherwise be qualified to receive the same and to or for their dependent relatives.

Applications for aid.
1866, 172, § 9.
1877, 192, §§ 2, 10.
1879, 301, § 6.
P. S. 30, § 7.
1889, 301, § 6.
1894, 301, § 6.
1898, 561, §§ 5, 6.
1899, 374, § 5.

SECTION 7. Applicants for state aid shall, before any payment thereof to them, state in writing under oath the name, age and residence of the person for whom such aid is sought, his relation to the person who rendered the service entitling the applicant to aid, the company, regiment or vessel in or to which the officer, soldier or sailor enlisted or was appointed and in which he last served; the date and place of such enlistment, if known; the duration of such service and the reason upon which the claim for aid is founded; and furnish such official certificates of record, evidence of enlistment, service and discharge as may be required. The original papers in each case shall be filed with the commissioners of state aid, who shall from time to time provide each city and town with blank forms for the use of applicants for aid.

SECTION 8. The commissioners of state aid shall be a board of appeal to determine all controversies between invalid pensioners and city and town authorities relative to claims for state aid, and their decision shall be final. They may refuse to decide upon the necessity of the claimant for aid, but if they determine that he is entitled thereto, they may authorize its payment to him, monthly, for not more than one year, under such limitations as they may impose.

Commissioners to be a board of appeal.
1866, 172, § 5.
1867, 136, §§ 4, 7.
1877, 192, § 9.
1879, 301, § 7.
P. S. 30, §§ 8, 18.
1889, 301, § 7.
1894, 301, § 7.
1898, 561, § 6.
1899, 374, § 6.
[1 Op. A. G. 49.]

MILITARY AID.

SECTION 9. The recipient of military aid shall belong to and have the qualifications of one of the four following classes: —

First Class, Each person of the first class shall have his settlement in the city or town aiding him; shall have served as a soldier, sailor, marine or commissioned officer in the manner and under the limitations prescribed in the first class of section three; shall have been honorably discharged from such United States service and from all appointments and enlistments therein; shall be poor and indigent and, by reason of sickness or other physical disability, in such need as would entitle him to relief under the pauper laws; shall not be, directly or indirectly, in the receipt of any other state or military aid, or of any pension for services rendered or disabilities incurred either in the civil war or in the war with Spain; and shall not, under the laws of the United States or under the rules governing any national soldiers' or sailors' home, be entitled to admission thereto, and his disability must have arisen from causes independent of his military or naval service aforesaid; but the mayor and aldermen, selectmen or, in Boston, the soldiers' relief commissioner, if satisfied, upon evidence first submitted to, and found satisfactory by, the commissioners of state aid, that justice and necessity require such aid to prevent actual suffering, may grant it to an applicant for a pension while his application is pending, or to an unmarried applicant for a pension who cannot obtain assistance at a national soldiers' or sailors' home.

Military aid.
First class.
1879, 252, § 3.
1881, 26, § 1.
P. S. 30, § 10.
1885, 173.
1886, 39.
1889, 279, §§ 1, 2.
Res. 1892, 84.
1894, 279, §§ 1, 2.
1898, 561, § 4.
1899, 372, §§ 1, 2, 13.
138 Mass. 256.
160 Mass. 503, 507.
[1 Op. A. G. 27.]

Second Class, Each person of the second class shall have his settlement in the city or town aiding him and be an invalid pensioner entitled to receive state aid whose pension and state aid are inadequate for his relief and who would otherwise receive relief under the pauper laws.

Second class.
1889, 279, § 2.
1894, 279, § 3.
1899, 372, § 3.

Third Class, Each person of the third class shall have all the qualifications of persons of the first class, except settlement; and he shall have been a continuous resident of this commonwealth during the three years last preceding his receipt of military aid, and he shall be a resident of the city or town aiding him.

Third class.
1889, 279, § 4.
1894, 279, § 4.
1899, 372, § 4.

Fourth Class, Each person of the fourth class shall have all the qualifications of persons of the second class, except settlement; and he shall have been a continuous resident of this commonwealth during the three years last preceding his receipt of military aid, and he shall be a resident of the city or town aiding him.

Fourth class.
1889, 279, § 5.
1894, 279, § 5.
1899, 372, § 5.

SECTION 10. A city or town shall not render military aid to a person of the third or fourth class until it has furnished to the commissioners of state aid such evidence as they require that he is entitled to receive aid and have received from said commis-

Payment to be ordered.
1889, 279, § 6.
1894, 279, § 6.
1899, 372, § 6.

sioners an order fixing the maximum amount which may be paid a month, and the period during which aid may be allowed and stating such other conditions as the commissioners may impose relative to such aid. Such order may be revoked or modified by the commissioners by giving written notice to the city or town which procures it.

Receipt not compulsory.
1878, 282, § 1.
1879, 252, § 5.
P. S. 30, § 12.
1889, 279, § 7.
1894, 279, § 7.
1899, 372, §§ 7, 8, 13.

SECTION 11. No person shall be compelled to receive military aid without his consent. No person shall receive military aid on account of his service in the war with Spain unless he was enlisted or appointed in the service of the United States aforesaid after the fourteenth day of February in the year eighteen hundred and ninety-eight and prior to the twelfth day of August in said year; but military aid may be allowed to or for volunteers mustered into the service of the United States in Massachusetts regiments after said twelfth day of August but prior to the first day of January in the year eighteen hundred and ninety-nine, who shall otherwise be qualified to receive the same. No person shall be compelled to receive military aid in an almshouse or other public institution, unless his physical or mental condition requires it or unless he so elects; and, except in such case, it shall be paid to or expended for those persons only who live separate from persons receiving support as paupers. The mayor and aldermen, selectmen, soldiers' relief commissioner or the commissioners of state aid may require a person to whom military aid is granted to pay over his pension to them to be expended for his relief before he shall receive such aid.

GENERAL PROVISIONS.

Receipt of aid limited.
1889, 279, § 7; 301, § 2.

SECTION 12. No person shall at the same time receive both state and military aid.

1894, 279, §§ 3, 7; 301, § 2. 1898, 561, § 3. 1899, 372, § 7; 374, § 2.

Application of aid.
1864, 47, § 4.
1865, 232, § 5.
1866, 172, § 4.
1867, 136, § 6.
1877, 192, §§ 3, 4, 10.
1879, 252, § 4; 301, § 5.
P. S. 30, §§ 6, 13.
1889, 279, § 8; 301, § 5.
1894, 279, §§ 7, 8; 301, § 5.
1898, 561, § 4.
1899, 372, §§ 7, 8; 374, §§ 2, 4.

SECTION 13. State and military aid shall be paid to or applied solely for the benefit of the person for whom it is intended, and only so much shall be paid to or for him as may be necessary to afford him reasonable relief or support. It shall not be paid to or for any person who is able to support himself, who is in receipt of income or who owns property sufficient for his support, nor to an amount in excess of such amount as is necessary, in addition to his income and property, for his personal relief or support, nor to or for any soldier, sailor, pensioner, dependent relative or nurse if the necessity therefor is caused by the voluntary idleness or continuous vicious or intemperate habits of the soldier, sailor or pensioner on whose account such aid is sought, nor to or for any person who has been dishonorably discharged from any national soldiers' or sailors' home or from the soldiers' home in this commonwealth, unless the commissioners of state aid, after a hearing, shall otherwise determine. State aid shall not be subject to the trustee process, and no assignment thereof shall be valid. No back state aid shall be paid, nor shall state aid be paid to or for any person convicted of crime unless the municipal authorities and the commissioners of state aid otherwise determine, nor shall state or military aid be paid if the pensioner, soldier or sailor deserted from the service of the United

States either in the war of the rebellion or in the war with Spain or is wilfully absent from his family and neglects to render them such assistance as he is able to give.

Returns and reimbursement. 1861, 222, §§ 5–7. 1862, 66, §§ 4–6; 151, § 3; 166, § 4. 1863, 79, § 3. 1864, 47, § 5. 1865, 232, §§ 3, 4. 1866, 172, § 6. 1867, 136, § 3. 1876, 219. 1877, 192, §§ 8, 10. 1878, 282, § 1. 1879, 252, § 7; 301, § 8. 1881, 26, § 2. P. S. 30, §§ 14–17. 1889, 279, § 10; 301, § 8. 1894, 279, § 10; 301, § 8. 1898, 561, § 7. 1899, 372, § 10; 374, § 7.

SECTION 14. The full amount expended for state or military aid by any city or town, the names of the persons aided and the classes to which they severally belong, the amounts paid to or for each person, the reasons therefor, the names of the persons on account of whose services the aid was granted, the names, if any, of the companies, regiments or vessels in which they respectively enlisted, or to which they were appointed, and in which they last served, and the relationship of each person who was aided to the soldier or sailor on account of whose services the aid was granted, and such other details as the commissioners of state aid may require, shall, within the first ten days of the month following the month in which the expenditure was made, be certified, under oath, by the mayor, treasurer and city clerk of any city or a majority of the selectmen of any town disbursing the same, to said commissioners on blank forms to be provided by and in a manner approved by said commissioners. The commissioners shall examine the certificates thereof and allow and indorse thereon such amounts as in their judgment have been paid and reported according to the provisions of this chapter, and transmit the certificate to the auditor. Said commissioners may decide upon the necessity of the amount paid in each case, and may allow any portion thereof which they may deem proper and lawful and which, in cases of payment to or for persons of the third or fourth class entitled to receive military aid, they shall also find to have been made according to their orders, but they shall allow and indorse the amounts which they have specifically authorized to be paid under and according to their decisions authorized and provided for by section eight. The whole of the amounts legally paid as aforesaid and so allowed for state aid, and all payments to or for persons of the third or fourth class entitled to military aid, and one-half of all payments made to persons of the first or second class entitled to military aid, but none of the expenses attending the payment of state or military aid, shall be reimbursed by the commonwealth to the several cities and towns on or before the tenth day of December in the year after such expenditure.

Investigating agent. 1866, 282, § 1. 1867, 136, § 5. 1877, 192, §§ 8, 10. 1879, 252, § 7; 301, § 7. P. S. 30, § 18. 1886, 110. 1889, 279, § 10; 301, § 7. 1894, 279, § 10; 301, § 7. 1899, 372, § 9; 374, § 6.

SECTION 15. The commissioners may, with the consent of the governor, appoint as occasion may require, one or more disinterested persons who shall investigate any claims against the commonwealth for state or military aid, may examine any persons to or for whom such aid has been paid, investigate the reasons therefor and all matters relating to the granting of such aid, and shall report their doings to the commissioners. The reasonable expenses of the commissioners, and the expenses and compensation of any such disinterested person, approved by said commissioners and allowed by the governor and council, shall be paid by the commonwealth.

Limitation of provisions. P. S. 30, §§ 2, 9. 1884, 34. 1889, 279, § 12; 301, § 9.

SECTION 16. The provisions of the preceding sections of this chapter and of special acts or resolves now or hereafter authorizing the payment of state or military aid to persons therein named, unless expiring by limitation of their own provisions, or unless

1894, 279, §§ 11, 12; 301, § 9. 1899, 372, §§ 11, 12; 374, § 8.

otherwise provided, shall continue in force until the first day of January in the year nineteen hundred and five; but such provisions as relate to the settlement of accounts for aid rendered by cities or towns previous to said date and to the reimbursement thereof shall continue in force for one year after said date.

Investigation of cases. 1879, 301, § 6. P. S. 30, § 7. 1889, 279, § 8; 301, § 6. 1894, 279, § 8; 301, § 6. 1898, 561, § 4.

SECTION 17. Municipal authorities who grant state or military aid shall from time to time after its original allowance make such investigations into the necessities and qualifications of the person aided as to prevent any payment thereof contrary to the provisions of this chapter. 1899, 372, § 8; 374, § 5.

SOLDIERS' RELIEF.

Soldiers' relief. 1888, 438, § 1. 1889, 298. 1890, 447. 1893, 279. 1897, 441. 160 Mass. 507.

SECTION 18. If a person who served in the army or navy of the United States in the war of the rebellion and received an honorable discharge from all enlistments therein, and who has a legal settlement in a city or town in the commonwealth, becomes, from any cause except his own criminal or wilful misconduct, poor and entirely or partially unable to provide maintenance for himself, his wife and minor children under the age of sixteen years, or for a dependent father or mother; or if such person dies leaving a widow or such minor children or a dependent father or mother without proper means of support, he or they shall receive such support as may be necessary by the city or town in which they or either of them have a legal settlement. Such relief shall be furnished by the mayor and aldermen or the selectmen or in Boston, subject to the direction of the aldermen thereof as to the amount to be paid to beneficiaries, by the soldiers' relief commissioner, at the home of the beneficiary or at such other place as they deem proper. A beneficiary shall not be required to receive such relief at an almshouse or public institution unless his physical or mental condition requires it, or unless he or, if he is a minor, his parents or guardian so elects. Printed reports of cities and towns shall designate such expenditures as soldiers' relief.

—how furnished. 1893, 237. 1898, 356. 1900, 189. 160 Mass. 507.

SECTION 19. The mayor and aldermen of a city or the selectmen of a town shall furnish such relief without a vote of the city council or of the town authorizing them thereto. Such relief shall be furnished only by, through or under the agency or direction of city or town officers who are authorized to disburse state or military aid. If the mayor and aldermen or the selectmen fail to furnish it, any person who is aggrieved may apply to the commissioners of state aid, who shall forthwith make a thorough investigation of the qualifications and circumstances of the applicant and shall determine the amount of relief, if any, to be given to him. Their decision shall be final, but may at any time be amended or reversed by them.

BURIAL OF INDIGENT SOLDIERS.

Burial agent, duties. 1889, 395, § 1. 1896, 279, § 1. 1897, 164, 441. 1900, 192. 1901, 283. [1 Op. A. G. 408.]

SECTION 20. The mayor of each city and the selectmen of each town or, in Boston, the soldiers' relief commissioner shall designate a burial agent, who shall serve without compensation, shall not be one of the overseers of the poor or be employed by them, and who shall, under regulations established by the commissioners of state

aid, cause to be properly interred the body of any honorably discharged soldier, sailor or marine who served in the army or navy of the United States during the war of the rebellion, and his wife, widow or dependent mother, if they die without sufficient means to defray funeral expenses; but no wife or widow of any soldier or sailor shall be entitled to the benefits of this section unless she was married to him prior to the year eighteen hundred and seventy. If an interment has taken place without the knowledge of the burial agent, application may be made to him within thirty days after the date of the death, and if upon investigation he shall find that the deceased was within the provisions of this section and the rules of the commissioners of state aid, he may certify the same as provided in the following section.

Limit of expense. Reimbursement. 1889, 395, §§ 2, 3. 1892, 184. 1894, 62. 1896, 279, § 2.

Section 21. The expense of such burial shall not exceed thirty-five dollars. It shall not be made in any cemetery or burial ground which is used exclusively for the burial of the pauper dead, or in any portion so used of any cemetery or burial ground. Relatives of the deceased who are unable to bear the expense of burial may be allowed to conduct the funeral. The full amount so expended, the name of the deceased soldier, sailor or marine, the regiment, company or vessel in which he served, the date of death, place of interment, and in case of a wife or widow the name of the husband and date of marriage, and such other details as the commissioners of state aid may require, shall be certified under oath to them, in such manner as they may approve, by the burial agent and the treasurer of the city or town expending the same, within ninety days after the burial; and said commissioners shall indorse upon them their allowance of such amounts as in their judgment have been paid and reported according to this chapter, and shall transmit such certificate to the auditor. The amounts legally paid and so allowed, but with no expense for disbursement, shall be reimbursed by the commonwealth to the several cities and towns on or before the tenth day of December in the year after the expenditures have been made.

STATE PENSION AGENT.

State pension agent. 1888, 396, § 1. 1891, 196, § 1.

Section 22. The governor, with the advice and consent of the council, shall appoint a citizen of this commonwealth to be a state agent for the settlement of pension, bounty and back pay claims of citizens of this commonwealth against the government of the United States. He shall receive an annual salary of two thousand dollars and shall hold office until his successor is appointed and qualified. He shall be provided with a suitable office and clerical assistance and shall be allowed his travelling expenses when necessary to visit the city of Washington, and may expend for such purposes and all other expenses necessary to the proper performance of his duties such sums as the general court may appropriate.

Duties. 1888, 396, § 3.

Section 23. He shall furnish information, prepare papers and expedite the adjudication of claims, and assist claimants in proving their cases, keep a record of the work done in his office and make an annual report thereof to the general court.

BOUNTY MONEY OF MINORS.

Bounty money of minors.
1865, 235.
P. S. 149, § 23.
97 Mass. 169.

SECTION 24. The bounty and pay of a minor who is enlisted in the military or naval service of the United States shall not be subject to legal process on account of debts due from his parent, and the transfer of such bounty or pay by the parent to such minor shall not be deemed fraudulent as to creditors.

CHAPTER 80.

OF THE SETTLEMENT OF PAUPERS.

Legal settlements.
C. L. 123, § 2.
1692-3, 28, § 9.
1700-1, 23, § 5.

SECTION 1. Legal settlements may be acquired in any city or town in the following manner, and not otherwise: 1766-7, 17, § 6.

1789, 14. R. S. 45, § 1. 1878, 190, § 1. 97 Mass. 382.
1793, 34, § 2. G. S. 69, § 1. P. S. 83, § 1. 138 Mass. 305.

— by married women.
1789, 14, § 3.
12 Mass. 363.
13 Allen, 88.

First, A married woman shall follow and have the settlement of her husband if he has any within the commonwealth; otherwise, she shall retain her own at the time of marriage if she then had any.

131 Mass. 454. 149 Mass. 223.

— by legitimate children.
1789, 14, § 3.
12 Mass. 428.
13 Mass. 468.
15 Mass. 237.
16 Mass. 134.

Second, Legitimate children shall follow and have the settlement of their father if he has any within the commonwealth; otherwise, they shall follow and have the settlement of their mother if she has any. 1 Pick. 197. 3 Pick. 172. 18 Pick. 264.
8 Cush. 528. 6 Allen, 31. 114 Mass. 554.

— by illegitimate children.
1789, 14, § 3.
13 Mass. 381.

Third, Illegitimate children shall have the settlement of their mother at the time of their birth if she then has any within the commonwealth. 8 Cush. 75. 8 Allen, 551.

— by freeholders, etc.
1789, 14, § 1.
1821, 94, § 2.
1868, 328, § 1.
1871, 379, § 1.

Fourth, A person of the age of twenty-one years who has an estate of inheritance or freehold in any place within the commonwealth and lives thereon three consecutive years shall thereby acquire a settlement in such place.

1 Pick. 153. 4 Cush. 172. 9 Allen, 137. 127 Mass. 540.
21 Pick. 233. 8 Cush. 525. 107 Mass. 598. 131 Mass. 18.
3 Met. 165. 1 Gray, 619. 110 Mass. 113. 140 Mass. 224.
5 Met. 350. 6 Allen, 431. 125 Mass. 521. 159 Mass. 491.

— by residents and tax payers.
1789, 14, § 1.
1868, 328, § 1.
1871, 379, § 1.
1874, 274, §§ 1, 3.
1898, 425, § 1.
13 Mass. 501.

Fifth, A person of the age of twenty-one years who resides in any place within this commonwealth for five consecutive years and within that time pays all state, county, city or town taxes duly assessed on his poll or estate for any three years within that time shall thereby acquire a settlement in such place.

16 Mass. 236. 12 Met. 35. 99 Mass. 587. 132 Mass. 495, 519.
7 Pick. 42. 4 Cush. 557. 105 Mass. 293. 153 Mass. 192.
8 Pick. 379. 15 Gray, 496. 126 Mass. 477. 159 Mass. 491.
10 Met. 115. 6 Allen, 508. 130 Mass. 370. [1 Op. A. G. 519.]

— by women, residence.
1870, 392, § 1.
1874, 274, § 2.
1879, 242, § 2.
120 Mass. 574.
130 Mass. 357.
136 Mass. 424.
137 Mass. 152.

Sixth, A woman of the age of twenty-one years, including a married woman who has no settlement derived by marriage under the provisions of the first clause, and a widow, who resides in any place within this commonwealth for five consecutive years, shall thereby acquire a settlement in such place.

140 Mass. 243, 325. 144 Mass. 25. 155 Mass. 359. 165 Mass. 251.

— by town officers.
12 Mass. 262.
1 Pick. 129.

Seventh, A person who is chosen and actually serves one whole year or for such period as is included between two successive annual town elections as clerk, treasurer, selectman, overseer of the poor, assessor, constable or collector of taxes in any place shall thereby acquire a settlement therein.

Eighth, A settled ordained minister of the gospel shall acquire a settlement in the place wherein he is settled as a minister. — Legal settlements by settled ministers.
4 Cush. 553. 7 Allen, 90.

Ninth, A minor who serves an apprenticeship to a lawful trade for four years in any place, and actually sets up such trade therein within one year after the expiration of said term, being then twenty-one years of age, and continues there to carry on the same for five years, other than as a hired journeyman, shall thereby acquire a settlement in such place. — by apprentices, etc.

Tenth, A person who was enlisted and mustered into the military or naval service of the United States, as a part of the quota of a city or town in this commonwealth, under any call of the President of the United States during the war of the rebellion or who was assigned as a part of the quota thereof after having been enlisted and mustered into said service, and who served for not less than one year, or died or became disabled from wounds or disease received or contracted while engaged in such service, or while a prisoner of the enemy, and his wife or widow and minor children, shall be deemed thereby to have acquired a settlement in such place; and any person who would otherwise be entitled to a settlement under this clause, but who was not a part of the quota of any city or town, shall, if he served as a part of the quota of the commonwealth, be deemed to have acquired a settlement in the place where he actually resided at the time of his enlistment. But these provisions shall not apply to any person who was enlisted and received a bounty for such enlistment in more than one place unless the second enlistment was made after an honorable discharge from the first term of service, nor to any person who has been proved guilty of wilful desertion, or who left the service otherwise than by reason of disability or an honorable discharge. — how acquired by soldiers and sailors.
1865, 230, §§ 1, 3. 1866, 288. 1868, 328, § 3. 1870, 392, §§ 3-5. 1871, 379, § 2. 97 Mass. 382. 102 Mass. 358. 104 Mass. 46. 107 Mass. 282. 115 Mass. 342. 130 Mass. 107. 132 Mass. 498, 510, 519. 138 Mass. 256, 293. 139 Mass. 15. 144 Mass. 520. 150 Mass. 106.

Eleventh, Upon the division of a city or town, every person having a legal settlement therein, but being absent at the time of such division, and not having acquired a legal settlement elsewhere, shall have his legal settlement in the city or town containing the last dwelling place or home which he had in the city or town so divided; and if a new city or town, composed of a part of one or more other cities or towns, is incorporated, every person legally settled in the places of which such new city or town is so composed, and who actually dwells and has his home within the bounds of such new city or town at the time of its incorporation, and any person duly qualified as provided in the tenth clause of this section, who, at the time of his enlistment, dwelt and had his home within such bounds, shall thereby acquire a legal settlement in such new place: but no person residing in that part of a place which upon such division is incorporated into a new city or town, and who then has no legal settlement therein, shall acquire any by force of such incorporation only; nor shall such incorporation prevent his acquiring a settlement therein within the time and by the means by which he would have gained it there if no such division had been made. — upon division or incorporation of towns.
1872, 280. 1 Pick. 144. 24 Pick. 164. 6 Met. 484. 4 Cush. 185. 1 Allen, 75. 125 Mass. 304.

SECTION 2. No person shall acquire a settlement, or be in process of acquiring a settlement, while receiving relief as a pauper, unless, within five years after the time of receiving such relief, he reimburses the cost thereof to the city or town furnishing the same. — not acquired while receiving relief as a pauper.
1874, 274, § 4. 1879, 242, § 1. P. S. 83, § 2.
13 Met. 192. 13 Gray, 92. 4 Allen, 574. 128 Mass. 287. 136 Mass. 424. 144 Mass. 25.

Inability to maintain wife, etc., in insane hospital, etc., not to make one a pauper.
1881, 188.
P. S. 83, § 3.
1898, 433, § 23.
19 Pick. 480.
15 Gray, 15.

SECTION 3. No person who actually supports himself and his family shall be deemed to be a pauper by reason of the commitment of his wife, child or other relation to an insane hospital or other institution of charity, reform or correction by order of a court or magistrate, and of his inability to maintain such wife, child or relation therein. 13 Allen, 88. 105 Mass. 293. 138 Mass. 101. 160 Mass. 232.

Provision for persons who have begun to acquire settlements.
R. S. 45, § 2.
G. S. 69, § 2.
1878, 190, § 2.
P. S. 83, § 4.

SECTION 4. No person who has begun to acquire a settlement by the laws in force at and before the time when this chapter takes effect, in any of the ways in which any period of time is prescribed for a residence, or for the continuance or succession of any other act, shall be prevented or delayed by the provisions hereof; but he shall acquire a settlement by a continuance or succession of the same residence or other act, in the same time and manner as if the former laws had continued in force.

Settlements to continue, etc.
1793, 34, § 2, cl. 12.
R. S. 45, § 3.
G. S. 69, § 3.
1878, 190, § 3.
P. S. 83, § 5.

SECTION 5. Except as hereinafter provided, every legal settlement shall continue until it is defeated or lost by the acquisition of a new one within this commonwealth; and upon the acquisition of such new settlement all former settlements shall be defeated and lost. 11 Mass. 441. 13 Met. 192. 6 Cush. 61. 13 Gray, 586.

—lost, when.
1870, 392, § 2.
1871, 379, § 3.
1878, 190, § 4.
P. S. 83, § 6.
1898, 425, § 2.
116 Mass. 570.

SECTION 6. Any settlement which was not fully acquired subsequent to the first day of May in the year eighteen hundred and sixty is hereby defeated and lost, unless such settlement prevented a subsequent acquisition of settlement in the same place; but if a settlement acquired by marriage is so defeated, the former settlement of the wife, if not also so defeated, shall be revived. A person who is absent from the commonwealth for ten consecutive years shall lose his settlement.

CHAPTER 81.

OF THE SUPPORT OF PAUPERS BY CITIES AND TOWNS.

Towns to support poor.
C. L. 123, § 2.
1692-3, 28, § 9.
1788, 61, § 1.
1793, 59, § 1.

SECTION 1. Every city and town shall relieve and support all poor and indigent persons lawfully settled therein, whenever they stand in need thereof.
R. S. 46, § 1. P. S. 84, § 1. 10 Cush. 238. 106 Mass. 262.
G. S. 70, § 1. 9 Met. 495. 3 Allen, 515. 160 Mass. 232, 503.

Powers and duties of overseers of the poor.
1788, 61, § 1.
1793, 59, § 2.
R. S. 46, § 2.
1857, 153.
G. S. 70, § 2.
P. S. 84, § 2.
10 Cush. 238.
8 Allen, 73.
106 Mass. 262.
128 Mass. 148.

SECTION 2. The overseers of the poor shall have the care and oversight of all such poor and indigent persons so long as they remain at the charge of their respective cities or towns, and shall see that they are suitably relieved, supported and employed, either in the workhouse or almshouse, or in such other manner as the city or town directs, or otherwise at the discretion of said overseers. They may remove to the almshouse such children as are suffering destitution from extreme neglect of dissolute or intemperate parents or guardians, except as hereinafter provided.

Care of paupers in families.
1897, 374, § 1.

SECTION 3. In towns in which paupers are provided for in families, the overseers of the poor shall investigate each place where

the town paupers are to be so provided for, and shall endeavor by contract to secure their proper care and maintenance. A full and complete record of each case shall be kept, showing the terms of the contract and what services, if any, are to be rendered by the paupers. A majority of the overseers of the poor shall certify upon the records that such investigation has been made in each case, and that they are satisfied that the paupers will be properly cared for. The overseers of the poor, either by one of their own number or by a duly appointed agent, shall, at least once in every six months, visit each place where the town paupers are supported, and a record of each visit and of the condition of the paupers visited shall be kept. 1898, 396, § 1. [1 Op. A. G. 463.]

SECTION 4. The state board of charity may visit and inspect all places where town paupers are supported in families. 1898, 396, § 2. Visitation of board of charity. 1897, 374, § 3.

SECTION 5. In every city and town, said overseers shall place every pauper child who is in their charge and is over four years of age in a respectable family in the commonwealth, or in an asylum therein, to be there supported by the city or town according to the laws relative to the support of the poor until they can be otherwise cared for. The overseers, personally or by agent, shall visit such child at least once in three months and make all needful inquiries as to his treatment or welfare. Overseers to place pauper children in families. 1879, 103, § 1. P. S. 84, § 3. 1893, 197, § 1.

SECTION 6. If said overseers of any city, except Boston, or of any town, fail to place out any pauper child according to the provisions of the preceding section for two months after the date of receiving such child, the state board of charity, to the exclusion of said overseers, shall perform such duty, and such child shall, under the direction of said board, be supported by the city or town in the same manner as if placed out by the overseers, and shall be subject to visitation by the officers or agents of said board until the board is satisfied that the overseers will properly care for him. Board of charity to place pauper children in families, when. 1887, 401. 1893, 197, § 2. 1898, 433, § 24.

SECTION 7. No such child who can be cared for as provided in section five without inordinate expense shall be retained in an almshouse unless he is a state pauper or an idiot, or otherwise so defective in body or mind as to make his retention in an almshouse desirable, or unless he is under the age of eight years and his mother is an inmate thereof and is a suitable person to aid in taking care of him. Such children not to be retained in almshouses, unless state paupers, etc. 1879, 103, § 2. P. S. 84, § 4.

SECTION 8. The overseers of the poor shall have the same power and authority over persons placed under their care which directors or masters of workhouses have over persons committed thereto. Powers of overseers. 1828, 142, § 2. R. S. 46, § 3.

G. S. 70, § 3. P. S. 84, § 5.

SECTION 9. A pauper, his executor or administrator shall be liable in an action of contract to a city or town in which he has a settlement for expenses incurred by it for his support. Liability of pauper. 1817, 186, § 5. 1882, 113. 12 Mass. 327.

1 Allen, 24. 146 Mass. 134. 148 Mass. 159.

SECTION 10. The kindred of such poor persons, in the line or degree of father or grandfather, mother or grandmother, children Certain kindred to support.

1692-3, 28, § 9. 1788, 61, § 1. 1793, 59, § 3. R. S. 46, § 5. G. S. 70, § 4. P. S. 84, § 6. 1898, 425, § 3. 15 Pick. 159. 10 Cush. 238. 6 Allen, 586.

or grandchildren, by consanguinity, living in this commonwealth, and of sufficient ability, shall be bound to support such poor persons in proportion to their respective ability. The mother shall be under the same legal obligation to support her pauper children as the father, but she shall not be liable to criminal prosecution for the enforcement of such obligation.

128 Mass. 137, 288. 144 Mass. 25. 160 Mass. 232.

Superior court to assess such kindred. 1692-3, 28, § 9. 1788, 61, §§ 1, 2. 1793, 59, § 3. R. S. 46, § 6. G. S. 70, § 5. P. S. 84, § 7. 1898, 425, § 4. 3 Mass. 436. 10 Cush. 238. 11 Cush. 24. 5 Gray, 28. 128 Mass. 137.

SECTION 11. A justice of the superior court sitting in equity in the county in which any one of such kindred to be charged resides, upon complaint of any city, town or kindred who has been at expense for the relief and support of such pauper, may on due hearing assess and apportion upon such of the kindred as it finds to be of sufficient ability and in proportion thereto such amount as he shall consider reasonable for or towards the support of the pauper to the time of such assessment, and may enforce payment thereof by execution in common form; but such assessment shall not extend to any expense for relief afforded more than two years previous to the filing of the complaint.

Assessment for future expenses. 1793, 59, § 3. R. S. 46, § 7. G. S. 70, § 6. P. S. 84, § 8.

SECTION 12. The court may further assess and apportion upon said kindred such weekly amount as it finds sufficient for the future support of the pauper, which shall be paid quarterly until the further order of court; and upon application from time to time of the city, town or kindred, to whom it is ordered to be paid, the clerk of said court shall issue and may renew an execution for the arrears of any preceding quarter.

Further orders. 1793, 59, § 3. R. S. 46, § 9. G. S. 70, §§ 8, 11. P. S. 84, §§ 10, 13.

SECTION 13. The court may, from time to time, upon application of any party interested, make further orders, alter such assessment and apportionment according to circumstances and may order with and by whom of such kindred as desire it, such pauper shall live and be relieved, and the length of time he shall live with different kindred, having regard to the comfort of the pauper as well as the convenience of the kindred.

Proceedings on complaints. 1793, 59, § 3. R. S. 46, § 10. G. S. 70, § 9. P. S. 84, § 11.

SECTION 14. The complaint, made as provided in section eleven, shall be filed in the clerk's office, and a summons, directed to any officer qualified to serve civil process, shall be thereupon issued requiring the kindred therein named to appear and answer thereto; and it shall be served like an original summons.

Costs, how taxed. 1793, 59, § 3. 1834, 103. R. S. 46, §§ 8, 12. G. S. 70, §§ 7, 11. P. S. 84, §§ 9, 13. 10 Allen, 68.

SECTION 15. The court may award costs to either party and if it adjudges two or more of the kindred of a pauper to be of sufficient ability to contribute to his support, it shall tax no more costs against any one respondent than is occasioned by his default or separate defence.

Other kindred may be summoned. 1793, 59, § 3. R. S. 46, § 11. G. S. 70, § 10. P. S. 84, § 12.

SECTION 16. Upon suggestion that there are other kindred of ability not summoned in the original process, they may be summoned, and after due notice, whether they appear or are defaulted, the court may proceed against them in the same manner as if they had been summoned upon the original complaint.

SECTION 17. The overseers of the poor, in their respective places, shall provide for the immediate comfort and relief of all persons residing or found therein, having lawful settlements in other places, when they fall into distress and stand in need of immediate relief, and until they are removed to the places of their lawful settlements. The expense thereof and of their removal, or burial in case of their decease, may be recovered in an action of contract against the place liable therefor, if commenced within two years after the cause of action arises, but nothing shall be recovered for relief furnished more than three months prior to notice thereof given to the defendant.

Overseers to provide for immediate relief of strangers. Action.
1701-2, 9, § 2.
1793, 59, § 9.
R. S. 46, § 13.
G. S. 70, § 12.
P. S. 84, § 14.
5 Mass. 325.
6 Mass. 501.
11 Mass. 482.
14 Mass. 227.
2 Pick. 341.
8 Pick. 562.
12 Pick. 1.
17 Pick. 68.
13 Met. 196.

11 Gray, 107. 1 Allen, 23. 8 Allen, 73.
103 Mass. 119. 136 Mass. 424. 140 Mass. 402. 160 Mass. 506.
118 Mass. 506. 138 Mass. 109. 141 Mass. 580. 164 Mass. 506.

SECTION 18. A judgment for the plaintiff in such action shall be conclusive as to the settlement of such pauper in any future action between the same parties for his support.

Judgment conclusive.
1793, 59, § 9.
R. S. 46, § 14.
G. S. 70, § 13.
P. S. 84, § 15.

103 Mass. 117.

SECTION 19. If a pauper is supported in a place in which he has no settlement, the place liable for his support shall not be required to pay therefor more than at the rate of two dollars a week if it causes him to be removed within thirty days after receiving legal notice that such support has been furnished.

Liability when pauper is removed.
1821, 94, § 3.
R. S. 46, § 15.
G. S. 70, § 14.
1873, 213.
P. S. 84, § 16.

21 Pick. 349. 13 Met. 198. 118 Mass. 506. 128 Mass. 148.

SECTION 20. The overseers of the poor of each place shall also relieve and support and may employ all poor persons residing or found therein, having no lawful settlements within this commonwealth, until their removal to the state hospital, and if they die shall decently bury them. They shall also decently bury all deceased persons who, although without means of support while living did not apply for public relief, and all unknown persons found dead. The expense thereof may be recovered of their kindred, if any, chargeable by law for their support in the manner hereinbefore provided; and if the expense of their burial is not paid by such kindred, an amount not exceeding fifteen dollars for the funeral expenses of each pauper over twelve years of age, and not exceeding ten dollars for the funeral expenses of each pauper under that age, shall be paid by the commonwealth.

Support and burial of indigent strangers.
1701-2, 9, § 2.
1788, 61, § 3.
1793, 59, § 13.
1830, 120, § 2.
R. S. 46, §§ 16, 32.
G. S. 70, § 15.
1867, 97.
1878, 256.
P. S. 84, § 17.
1887, 310, § 3.
1890, 71.
1898, 354.

SECTION 21. A city or town may furnish aid to poor persons found therein, having no lawful settlements within the commonwealth, if the overseers of the poor consider it for the public interest; but, except in cases under the provisions of section fourteen of chapter eighty-five, not for a greater amount than two dollars a week for each family during the months of May to September, inclusive, or three dollars a week during the other months; and the overseers shall in every case give immediate notice in writing to the state board of charity, which shall examine the case and if it directs a discontinuance of such aid, shall remove such persons to the state hospital or to any state or place where they belong, if their necessities or the public interest requires it, and the superintendent of said hospital shall receive the persons removed thereto as if they were sent there in accordance with the provisions of section seven of chapter eighty-five. A detailed statement of expenses so

Aid to state paupers, when.
1821, 20.
1835, 127.
1855, 445, § 2.
1856, 171, § 2.
1857, 129.
1877, 183.
P. S. 84, § 18.
1886, 101, § 4.
1891, 90, § 1.
1898, 425, § 5; 433, § 24.

incurred shall be rendered, and after approval by the state board, such expenses shall be paid by the commonwealth.

Strangers to work in return for food and lodging.
1875, 70.
P. S. 84, § 19.
1895, 445, § 1.

SECTION 22. The overseers of the poor and the officer in charge of premises provided by a city or town for the purpose of supplying food or lodging on said premises may require any person applying for and receiving food or lodging to perform a reasonable amount of labor in return therefor, and may detain him for not more than twenty-four hours after the time of such application until the labor required of him as aforesaid has been performed.

Paupers to work in almshouse.
1895, 445, § 2.

SECTION 23. A person who receives aid in an almshouse or workhouse of a city or town may be required by the officer in charge thereof to perform such labor as the official physician shall certify to be suited to his age, strength and capacity.

Penalty for refusal to work.
1895, 445, § 3.
1898, 443, § 1.

SECTION 24. Whoever refuses or neglects to perform any labor required of him under the provisions of the two preceding sections, or while performing such labor wilfully damages any property of the city or town requiring the same, shall be punished, in the county of Suffolk, by imprisonment in the house of correction for not more than one year, and in other counties, in the house of correction for a like term, or at the state farm.

Towns may establish hospitals.
1873, 192.
P. S. 84, § 20.

SECTION 25. A city or town may erect, establish and maintain a hospital for the reception of persons who by misfortune or poverty require relief during temporary sickness. City councils and selectmen may make such ordinances, rules and regulations as they may consider expedient for the appointment of trustees and all other officers and agents necessary for managing such hospital.

What children placed with infant asylums.
1867, 230, § 3.
P. S. 84, § 21.
1883, 232, § 1.
1886, 101, § 4.

SECTION 26. The overseers of the poor of a city or town and the superintendent and board of trustees of the state hospital may place deserted and destitute infants in the care of the Massachusetts Infant Asylum or St. Mary's Infant Asylum, and such amount as may be agreed upon shall be paid for the temporary support of such infants; but such overseers and the state board of charity shall use all reasonable care to collect the cost of such temporary support from parties justly chargeable with the same, and to remove infants which were not born in this commonwealth or have no settlement therein.

Institutions to comply with certain laws.
1870, 92, § 1.
P. S. 84, § 22.

SECTION 27. An incorporated charitable institution to which the custody of an infant less than four years of age has been delegated by state, city or town officers charged with the custody of destitute children shall comply with all the provisions of law, and be subject to all the restrictions concerning such infant, applicable to such officers.

— may place out abandoned children, when.
1870, 92, § 3.
P. S. 84, § 23.

SECTION 28. If an infant lawfully in the custody of a charitable institution as aforesaid has been wilfully deserted and abandoned for more than four months by its parents or natural guardians, the officers of such institution may procure any suitable person in this commonwealth to take and support such child for such time as

may be specified in a written agreement made for that purpose, not exceeding the time when the child shall be fourteen years old. The form and conditions of such agreement shall be prescribed by the state board of charity, and the agreement, with a descriptive list of the origin, name, age and person of the infant, so far as known, and the name, residence and recommendations of the person taking the child, shall be returned to the state board in such form as it may prescribe. All such children shall be subject to the visitation and control provided by law for children put out or apprenticed from state institutions; but nothing herein contained shall diminish the legal rights of parents, guardians and next of kin.

Judge of probate to authorize removal of minors from state.
1868, 279, §§ 1, 2.
P. S. 84, §§ 24, 25.

SECTION 29. Overseers of the poor shall not remove, nor allow the removal of, a minor under their control beyond the limits of the commonwealth without the approval of the judge of probate, granted upon application and after notice to all parties interested and a hearing unless such minor has a settlement in another state. Nor shall they withhold information relative to the maintenance of such minor from any person entitled to receive the same. Whoever violates the provisions of this section shall be punished by a fine of not more than five hundred dollars.

Pauper may be removed out of state, when.
1868, 328, § 2.
P. S. 84, § 26.

SECTION 30. A person who has actually become chargeable as a pauper to a city or town in which he has a settlement and who subsequently acquires a settlement in a place out of this commonwealth, may be removed thereto by the overseers of the poor of such city or town by a written order directed to any person therein designated.

Towns liable to individuals.
1742–3, 18, § 4.
1793, 59, § 13.
R. S. 46, § 18.
G. S. 70, § 16.
P. S. 84, § 27.
2 Mass. 547.

SECTION 31. Every city and town shall be liable for any expense necessarily incurred for the relief of a pauper therein by any person who is not liable by law for his support, after notice and request made to one or more of the overseers thereof, and until provision is made by them. 15 Mass. 286. 19 Pick. 473. 7 Met. 214. 4 Cush. 199. 6 Cush. 399. 9 Allen, 134. 113 Mass. 47. 124 Mass. 286. 10 Cush. 3. 105 Mass. 533. 116 Mass. 353. 145 Mass. 115.

Pauper may be removed to place of settlement.
1793, 59, §§ 10, 12.
R. S. 46, § 19.
G. S. 70, § 17.
P. S. 84, § 28.
23 Pick. 156.

SECTION 32. The overseers of a place to which a person has actually become chargeable may give written notice thereof to, and request his removal by, one or more of the overseers of the place where his settlement is supposed to be, who may, by an order in writing, directed to a person therein designated, cause such removal to be made. 4 Met. 433. 5 Allen, 545. 124 Mass. 117. 152 Mass. 484. 13 Met. 199. 103 Mass. 117. 138 Mass. 256. 167 Mass. 579.

Process in case of removal.
1766–7, 17, § 7.
1793, 59, § 12.
R. S. 46, § 20.
G. S. 70, § 18.
P. S. 84, § 29.
1891, 90, § 2.
1 Mass. 517.
1 Pick. 470.
23 Pick. 156.
9 Allen, 91.
103 Mass. 117.
117 Mass. 445.
124 Mass. 117.
131 Mass. 10.
145 Mass. 535.

SECTION 33. If, within one month after receiving such notice, the overseers of the latter place do not cause such removal to be made or a statement in writing signed by one or more of them of their objections to the removal to be transmitted to the overseers requesting such removal, the overseers who requested the removal may, by a written order directed to a person therein designated, cause the pauper to be removed to the place of his supposed settlement; and the overseers thereof shall receive and provide for him; and such place shall be liable in an action to the place incurring the same for the expenses of his support and removal, and shall be barred

from contesting the question of settlement in such action unless the settlement is denied in said statement.

Notices, etc., sent by mail; effect.
1828, 142, § 1.
R. S. 46, § 21.
G. S. 70, § 19.
P. S. 84, § 30.
16 Mass. 110.

SECTION 34. The notice and statement mentioned in the two preceding sections may be sent by mail; and if directed to the overseers of the poor of the place intended to be notified or answered, postage prepaid, shall be a sufficient notice or answer, and shall be considered as delivered to the overseers to whom it is directed at the time when it is received in the post office of the place to which it is directed and in which they reside.

Penalty for leaving paupers where not settled.
1788, 61, § 9.
1793, 59, § 15.
R. S. 46, § 24.
1849, 66.
G. S. 70, § 20.
P. S. 84, § 31.
16 Mass. 393.

SECTION 35. Whoever brings into and leaves a poor and indigent person in any place in this commonwealth, wherein such person is not lawfully settled, knowing him to be poor and indigent, and with intent to charge such place with his relief or support, shall forfeit not more than one hundred dollars for each offence, to the use of such place. 1 Pick. 465. 21 Pick. 83. 102 Mass. 216. 105 Mass. 336.

— for false representations.
1891, 343.
1898, 433, § 24.

SECTION 36. Whoever knowingly and wilfully makes any false representations in writing to the overseers of the poor, to their agent or to the state board of charity or its agents, for the purpose of causing any person to be supported in whole or in part as a pauper by a city or town or by the commonwealth, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year.

Estate of deceased pauper, by whom sold.
1817, 186, § 6.
1837, 54.
1858, 26.
G. S. 70, § 21.
P. S. 84, § 32.
6 Pick. 462.
160 Mass. 503.

SECTION 37. Upon the death of a pauper who at his decease is actually chargeable to a place within this commonwealth, the overseers of the poor thereof may take possession of all his real and personal property; and if administration is not taken upon his estate within thirty days after his decease, they may in their own names sell and convey so much thereof as may be necessary to reimburse the expenses incurred for the pauper. If any part of such property is withheld from said overseers, they may in their own names sue for and recover possession of the real property, and shall have the same remedy for the recovery of the personal property or its value as an administrator might have in like case.

Overseers may prosecute.
1795, 59, § 14.
R. S. 46, § 26.
G. S. 70, § 22.
1863, 240, § 2.
P. S. 84, § 33.

SECTION 38. In all actions and prosecutions founded on the provisions of the preceding sections, the overseers of the poor of any place or any person appointed by a writing under their hands shall appear and prosecute or defend the same in behalf of such place.

— to keep records of paupers.
1867, 209, § 1.
P. S. 84, § 34.
1901, 177.

SECTION 39. Overseers of the poor shall keep full and accurate records, in a form prescribed by the state board of charity, of the paupers fully supported, the persons relieved and partially supported, and the travellers and vagrants lodged at the expense of their cities and towns and of the amount paid for such support and relief.

— to make annual return.
1837, 194, § 1.
1841, 116, § 1.
1844, 146.
1864, 307, § 6.
1867, 209, § 2.

SECTION 40. They shall annually, in April, for the year ending on the last day of March, return to the state board of charity the number of such persons supported and relieved, the cost thereof, and a record of those fully supported.

1875, 216. P. S. 84, § 35. 1886, 101, § 4.

SECTION 41. In the year nineteen hundred and five and in every tenth year thereafter the return of the overseers of the poor shall contain true and correct answers to the following inquiries: — Overseers to make decennial returns. 1837, 194, § 1. 1848, 247, § 1. G. S. 70, § 23. 1875, 216. P. S. 84, § 36.

How many persons have been relieved or supported by your town during the year ending September 30? Of those, how many have a legal settlement in your town? How many are foreign born and of what nationalities are they? How many state paupers have you sent to the state hospital? How many of the poor assisted in your town or sent to state hospital were foreigners? How many of your insane do you support in state insane hospitals? How many of your idiotic poor are in the Massachusetts School for the Feeble-Minded? Have you an almshouse? How many acres of land are attached to your almshouse? What is the estimated present value of your almshouse establishment? Real estate? Personal? How many persons have been supported in your almshouse during the whole or any part of the year? What is the average number supported in the almshouse? What is the average weekly cost of supporting each pauper in the almshouse? How many inmates of your almshouse have been unable to perform any kind or amount of labor? What is the estimated value of all the labor performed by the poor in your almshouse? How many persons, including their families, have you supported outside of the almshouse during the whole or a portion of the year? What is the average weekly cost of supporting each pauper outside of the almshouse? How many have you aided outside of the almshouse? How many have you supported or relieved who were insane? How many who were idiots? How many persons, relieved or supported during the year in your town, have become dependent by reason of insanity or idiocy? How many of your poor, supported at the public charge, have been made dependent by their own intemperance? How many by the intemperance of those who ought to have been their supporters? What is the total net amount of expense of supporting or relieving the poor in your town during the year, including interest on your almshouse establishment? How many are supported in your almshouse at the present time? How many are supported outside of the almshouse at the present time? How many are assisted outside of the almshouse at the present time?

They shall, at the same time, make correct returns of the name, age and sex of every child in such city or town under fourteen years of age who is supported at the public charge.

SECTION 42. If the overseers of the poor of a city or town refuse or neglect to comply with the requirements of the three preceding sections, such city or town shall forfeit one dollar for each day's neglect, and the amount of such forfeiture shall be deducted from any amount to which said city or town may be entitled in reimbursement for relief of state paupers as provided in sections fifteen and sixteen of chapter eighty-five; and if no such reimbursement shall be due to said city or town, the forfeiture shall be deducted from any money which may be due to it from the commonwealth. Penalty for failure. 1837, 194, § 3. G. S. 70, § 24. 1867, 209, § 3. P. S. 84, § 37. [1 Op. A. G. 95.]

SECTION 43. Overseers of the poor shall make and forward returns, on or before the tenth day of January and July in each year, to the state board of charity relative to all minor children over the age of four years who are supported at the expense of such city or town in an almshouse or elsewhere on the first day of said months. Said returns shall be made in such form and shall contain such information relative to said minor children as may be prescribed by the state board. Semi-annual returns relative to children. 1871, 370, § 1. P. S. 84, § 38.

SECTION 44. A treasurer of a savings bank, institution for savings, benefit association, insurance company or safe deposit Information to overseers, of deposits.

1852, 132, §§ 1, 3. G. S. 57, §§ 151, 153. 1876, 203, § 25. P. S. 116, § 43. 1894, 317, § 48. 1898, 425, § 6.

company who, upon request in writing signed by an overseer of the poor of a city or town, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request who is a charge upon such city or town as a pauper, or who wilfully renders false information in reply to such request, shall forfeit for each offence fifty dollars, to the use of such city or town.

CHAPTER 82.

OF THE MAINTENANCE OF BASTARD CHILDREN.

Complaint. C. L. 55, § 2. 1692-3, 18, § 5. 1785, 66, § 2. R. S. 49, § 1. 1846, 266, § 1. 1853, 57, § 11. 1857, 300. 1859, 239, § 1. G. S. 72, § 1; 116, § 17. 1860, 202, § 2. 1875, 15, § 11. 1876, 227, §§ 4, 6. P. S. 85, § 1. 1885, 289. 1897, 237, § 2. 6 Pick. 104. 3 Met. 209. 13 Met. 372. 6 Cush. 111. 13 Gray, 538. 15 Gray, 50. 2 Allen, 402. 3 Allen, 149, 479. 4 Allen, 365, 435. 5 Allen, 209, 301. 9 Allen, 459. 10 Allen, 389. 13 Allen, 472.

SECTION 1. Upon complaint of a woman who has been delivered of a bastard child, or who is pregnant with a child, which, if born alive, may be a bastard, to a police, district or municipal court, to a clerk thereof or to a trial justice, against the man whom she accuses of being the father of the child, the court, clerk or trial justice shall take her accusation and examination, in writing under oath, relative to the person accused, the time when and place where the complainant was begotten with child, and such other circumstances as the court, clerk or trial justice considers necessary for the discovery of the truth of such accusation. The court, clerk or trial justice may issue a warrant against the person accused, which may be returnable before the same or any other court or trial justice having jurisdiction thereof in the county. The warrant shall run throughout the commonwealth, and any officer qualified to serve civil or criminal process in any county, to whom it is directed, may serve it and apprehend the defendant in any county.

14 Allen, 155. 104 Mass. 224. 110 Mass. 152. 119 Mass. 167. 133 Mass. 559. 143 Mass. 182, 449. 150 Mass. 292. 151 Mass. 532. 153 Mass. 369, 428. 172 Mass. 167. 174 Mass. 117. 175 Mass. 469.

Complainant, if woman refuses. 1859, 239, § 3. G. S. 72, § 2. 1863, 240, § 2. 1879, 291, § 3. P. S. 85, § 2. 1886, 101, § 4. 1898, 433, § 24. 1900, 129. 3 Allen, 477, 481. 8 Allen, 334. 10 Allen, 389. 138 Mass. 370.

SECTION 2. If a woman who is entitled to make a complaint refuses or neglects so to do when requested by an overseer of the poor of the place where she resides or has her settlement, or by one of the state board of charity, or by the superintendent of the state hospital, or by a person authorized by any of them to make the request, or by either of her parents or her guardian, the person so requesting may make the complaint; and if, after it has been made, she dies, or refuses or neglects to prosecute the same, any of said persons may prosecute the case to final judgment for the benefit of the parent, guardian, city, town or commonwealth.

Complaint by state pauper, where made. 1859, 239, §§ 2, 6. G. S. 72, § 3. P. S. 85, § 3.

SECTION 3. If such woman is an inmate of the state hospital, a complaint by her or in her behalf may be made either in the county in which she then is, or in the county in which she last had her usual place of abode before becoming such inmate, and the warrant shall be returnable in the latter county or the county in which the defendant resides. If a complaint is made in the county of Suffolk, by or in behalf of an inmate of the house of correction at Deer Island, the warrant shall be returnable before the municipal court of the city of Boston.

SECTION 4. A person who is arrested upon such warrant may be released upon giving a bond with sufficient surety or sureties, in not less than three hundred dollars, for his appearance before the court or trial justice having jurisdiction of the complaint, at a time to be specified in said bond.

Release from arrest. Bond.
1871, 42, § 1.
P. S. 85, § 4.
113 Mass. 268.

SECTION 5. The bond shall be made to the party for whose benefit the complaint is made or prosecuted, and the sureties may be examined and the bond approved by a justice, special justice or clerk of a police, district or municipal court, by a trial justice or by a bail commissioner or master in chancery.

Form of bond, etc.
1871, 42, § 2.
1875, 109.
P. S. 85, § 5.
1891, 367.
1899, 262.

SECTION 6. The court or trial justice may continue from time to time the hearing of such complaint, may take a bond from the defendant to the complainant, in a sufficient sum and with sufficient surety or sureties, with condition that he will appear before the court or trial justice at any time to which the hearing of the complaint may be continued, and from time to time thereafter, until the final disposition of said complaint before said court or trial justice and not depart without leave; and may order him to be committed until he gives such bond, which may be approved as provided in the preceding section.

Continuance of hearings.
1863, 127, § 1.
P. S. 85, § 6.
1891, 367.

SECTION 7. If the defendant does not appear before the court or trial justice at any time to which the hearing is continued, or departs without leave, his default shall be recorded, and the bond, a copy of the complaint and warrant and of the record of the court or trial justice shall be transmitted to the superior court in the same county, and the complaint shall be there entered and determined in the manner herein provided in similar cases. If, on the final hearing, the defendant is adjudged by the superior court to be the father of the child of which he is accused, the bond shall be security for the performance by him of any order of the court under the provisions of section fifteen.

Removal of case to superior court.
1863, 127, § 2.
P. S. 85, § 7.
126 Mass. 233.
143 Mass. 126.
153 Mass. 369.

SECTION 8. The surety on a bond given under the provisions of section six may surrender the principal to the court or trial justice before whom the complaint is pending, or to the superior court if the complaint is pending therein, and upon such surrender, the bond shall be void and the court or trial justice to whom the surrender is made may require a new bond from the defendant, with sufficient surety or sureties, and the defendant shall stand committed until he gives it; but if the surrender is made in the superior court, the new bond shall be for the appearance of the defendant to answer to the complaint in, and abide the order of, said court.

Surrender of principal by surety.
1856, 34, § 1.
1863, 127, § 3.
P. S. 85, § 8.
3 Allen, 153.
176 Mass. 231.

SECTION 9. The court or trial justice before whom the warrant is returnable may after due hearing require the defendant to give bond with sufficient surety or sureties to appear and answer to the complaint at the next return day of the superior court, and abide the order of the court thereon; and may order him to be committed until such bond is given. 3 Allen, 153. 8 Allen, 334. 108 Mass. 233. 110 Mass. 152, 317. 116 Mass. 198, 263, 360. 138 Mass. 367. 150 Mass. 292, 153 Mass. 369. 167 Mass. 543. 113 Mass. 268. 119 Mass. 167, 228. 143 Mass. 126. 451. 157 Mass. 417. 174 Mass. 117.

Defendant may be bound over to superior court.
G. S. 72, § 4.
P. S. 85, § 9.
1885, 384, § 5.
13 Met. 372.
11 Cush. 197.
2 Allen, 402.

Notice to complainant, etc.
1863, 127, § 4.
P. S. 85, § 10.
1885, 384, § 5.

SECTION 10. If the court or trial justice requires the defendant to give bond under the provisions of the preceding section, or if the defendant makes default, the court or trial justice shall, before the next return day of the superior court in the same county, if the complaint was made by the woman entitled to make the same, send written notice by mail or otherwise to the person authorized to make the complaint under the provisions of section two that such complaint has been made, and that the defendant has been required to give bond, or has made default, as the case may be.

Surrender of principal to jailer, when.
1878, 48.
P. S. 85, § 11.
3 Allen, 151.

SECTION 11. A surety upon a bond given under the provision of section six may, if the court in which the complaint is pending is not in session, surrender his principal to the keeper of any jail in the county in which the complaint is pending. The surety shall deliver to the jailer a copy of the bond, attested by the officer having custody thereof, which shall be a sufficient warrant to the jailer, although the surrender and commitment prove to be unlawful on the part of the surety. Such surrender shall have the same effect as a surrender under the provisions of section eight, and like proceedings may be had thereafter.

Discharge of defendant on non-entry, how.
1865, 161.
P. S. 85, § 12.
1885, 384, § 5.

SECTION 12. If the defendant is committed under the provisions of section nine and the complaint is not entered at the return day of the superior court at which he was required to appear, he may make application to said court to be discharged; and if it appears, after such notice as the court may order, that there is no ground to hold him to answer further to the complaint, the court shall order him to be discharged.

Continuance of cause.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 2.
G. S. 72, § 5.
P. S. 85, § 13.
12 Pick. 195.
3 Allen, 151, 153.
119 Mass. 59.
138 Mass. 369.

SECTION 13. If, at the sitting of the superior court to which the defendant is held to answer, such woman has not been delivered or is not able to attend, or if there is any other sufficient reason therefor, the court may order a continuance of the cause, and the bond shall remain in force until final judgment: but if the sureties thereon, at any time, object to being longer held liable, or if the court finds it proper, a new bond may be required, and the defendant shall stand committed until it is given.

Discharge after commitment, how.
1856, 34, § 2.
G. S. 72, § 6.
P. S. 85, § 14.
1898, 157.

SECTION 14. If the defendant is committed on account of inability to give bond, he shall be discharged from imprisonment at any time thereafter upon giving the required bond, approved in the manner provided in section five.

Trial by jury.
C. L. 55, § 2.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 4.
G. S. 72, § 7.
P. S. 85, § 15.
2 Mass. 155.
5 Mass. 517.
14 Mass. 386.
4 Gray, 69.
3 Allen, 481.
108 Mass. 233.
112 Mass. 60.
113 Mass. 268.
118 Mass. 569.
128 Mass. 211.
145 Mass. 18.

SECTION 15. Upon the trial of the complaint, the issue to the jury shall be whether the defendant is guilty or not guilty. If the jury find him guilty, or if he is defaulted, he shall be adjudged by the court to be the father of such child, and shall stand charged with the maintenance thereof, with the assistance of the mother, in such manner as the court shall order, and shall give bond with sufficient surety or sureties to perform said order, and to indemnify and save harmless against all charges of maintenance the parents of the mother and any city or town or the commonwealth chargeable with the maintenance of such child; and he may be committed until he gives such bond. If the jury find him not guilty, the court shall order him to be discharged. The verdict in either case shall be final.

SECTION 16. The mother of the child shall be admitted as a witness in support of the complaint, and may be compelled to testify; but her admissions shall not be used against her in any criminal prosecution, except for perjury committed while so testifying. If, upon examination under the provisions of section one and also in the time of her travail, she accuses the same man of being the father of the child of which she is about to be delivered, and continues constant in such accusation, her accusation in time of travail may be put in evidence upon the trial to corroborate her testimony.

Mother of child may testify.
C. L. 55, § 2.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 3.
1857, 305, § 1.
1859, 239, § 4.
G. S. 72, § 8.
P. S. 85, § 16.
5 Pick. 63.
8 Pick. 559.
3 Cush. 537.
10 Cush. 285, 492.
11 Gray, 376.

2 Allen, 406. 4 Allen, 435. 7 Allen, 136. 103 Mass. 46. 116 Mass. 198. 123 Mass. 365. 143 Mass. 182, 449. 148 Mass. 66. 150 Mass. 292. 153 Mass. 378.

SECTION 17. If any of the persons authorized by the provisions of section two have intervened as therein provided, no complaint instituted by the mother shall be withdrawn, dismissed or settled by agreement between her and the putative father without the consent of the person so intervening unless provision is made, to the satisfaction of the court, to relieve and indemnify any parent, guardian, city, town or the commonwealth from all charges which have accrued or may accrue for the maintenance of the child, and for the costs of complaint and prosecution thereof.

Withdrawal of complaint.
1859, 239, § 5.
G. S. 72, § 9.
P. S. 85, § 17.
4 Allen, 59.
9 Allen, 461.
121 Mass. 533.

SECTION 18. No settlement made by the father and mother, before or after the complaint is made, shall relieve the father from liability to any city or town or the commonwealth for the support of a bastard child.

Liability of father for support.
1859, 239, § 5.
G. S. 72, § 10.
P. S. 85, § 18.

160 Mass. 232.

SECTION 19. Officers named in section two may, with the consent of the mother or of her parent or guardian, compromise such complaint on receipt of a fixed sum, or of security for the payment thereof, for the benefit of the city, town or commonwealth, as the case may be.

Compromise after complaint.
1862, 213.
P. S. 85, § 19.
4 Allen, 59.

SECTION 20. If the defendant has been imprisoned ninety days for a failure to comply with an order of the superior court, as provided in this chapter, he shall have the benefit of the laws for the relief of poor debtors committed on execution if he causes the notice required by the provisions of section thirty-three of chapter one hundred and sixty-eight to be served upon the clerk of the city or town in which the child of which he is the reputed father has its legal settlement, if there is such place in the commonwealth, and upon the parties to the record, thirty days at least before the time appointed for taking the oath.

Defendant may take poor debtor's oath.
1825, 173.
R. S. 49, § 5.
G. S. 72, § 11.
P. S. 85, § 20.
3 Allen, 151.
153 Mass. 428.

SECTION 21. The mother of such child, and said city or town or the commonwealth, respectively, may, at any time after the liberation of the defendant or after taking said oath, recover by action of contract any amount of money for which he is liable to them respectively in pursuance of such order of court.

Remedy by action.
1825, 173.
R. S. 49, § 6.
G. S. 72, § 12.
P. S. 85, § 21.
153 Mass. 428.

SECTION 22. Prosecutions under the provisions of this chapter, except as herein otherwise expressly provided, shall be according to the course of proceedings in civil cases, and shall not be entertained at a sitting of the superior court held exclusively for the transaction

Prosecutions, civil.
1851, 96, §§ 1, 2.
G. S. 72, § 13.
1863, 127, § 5.
P. S. 85, § 22.
3 Cush. 537.

6 Cush. 64, 111. 9 Gray, 253. 4 Allen, 365.

of criminal business; but they may be tried before police, district or municipal courts when sitting for civil or criminal business.

5 Allen, 301. 103 Mass. 50. 105 Mass. 234. 108 Mass. 233. 138 Mass. 369. 145 Mass. 18. 167 Mass. 543. 174 Mass. 117.

Complainant not to support defendant in prison. 1852, 187. G. S. 72, § 14. P. S. 85, § 23.

SECTION 23. The complainant shall not be required to pay or give security for the support of the defendant if he is committed to prison by virtue of the provisions of this chapter; nor shall the defendant be discharged from imprisonment although payment is not made or security given for his support.

CHAPTER 83.

OF THE PROTECTION OF INFANTS AND THE CARE OF PAUPER CHILDREN.

SECTIONS 1–19. — Protection of Infants.
SECTIONS 20–25. — Care of Pauper Children.
SECTIONS 26–28. — Care of Children Under Seven Years of Age.
SECTIONS 29–35. — Care of Destitute and Abandoned Children.
SECTIONS 36–39. — Care of Children Under Sixteen Years of Age.

PROTECTION OF INFANTS.

Definition of infant boarding house. 1889, 416, § 2. 1892, 318, § 2. 162 Mass. 596.

SECTION 1. Whoever for hire, gain or reward has in his custody or control at one time two or more infants under the age of two years unattended by a parent or guardian, except infants related to him by blood or marriage, for the purpose of providing them with care, food and lodging shall be deemed to maintain a boarding house for infants.

Infant boarding houses to be licensed. 1889, 416, § 3. 1892, 318, §§ 3, 4. 162 Mass. 596.

SECTION 2. The state board of charity may grant licenses to maintain boarding houses for infants. Every application therefor shall, except in Boston, first be approved by the board of health of the city or town in which such boarding house is to be maintained. Such license shall be granted for a term not exceeding one year, shall state the name of the licensee, the particular premises in which the business may be carried on, the number of infants which may be boarded there at one time, and, if required by said board, it shall be posted in a conspicuous place on the licensed premises. No greater number of infants shall be kept at one time on the premises than is authorized by the license, and no infant shall be kept in a building or place not designated in the license. A record of licenses issued shall be kept by the state board of charity, which shall forthwith give notice to the board of health of the city or town in which the licensee resides of the granting of such license and of the terms thereof. The state board of charity and boards of health of cities and towns except Boston shall annually, and may, at any time, visit and inspect, or designate a person to visit and inspect, premises so licensed.

Revocation of license. 1889, 416, § 3. 1892, 318, §§ 3, 6. 162 Mass. 596.

SECTION 3. The state board of charity may revoke such license in its discretion, and shall note such revocation upon the face of the record thereof. It shall give written notice of such revocation to the licensee by delivering the notice to him in person or by leaving it on the licensed premises.

SECTION 4. Every such licensee shall keep a record, in a form to be prescribed by the state board of charity, of every infant received, the date of its reception, the name and address of the person from whom it was received, the date of its discharge and the name and address of the person to whom it was delivered on discharge.

Records by licensee.
1892, 318, § 5.
162 Mass. 596.

SECTION 5. Whoever maintains a boarding house for infants, unless licensed thereto by the state board of charity, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Penalty for maintaining unlicensed boarding houses.
1892, 318, § 1.

SECTION 6. Whoever receives under his care or control, and whoever places under the care or control of another for compensation, an infant under two years of age, which is not related by blood or marriage to the person receiving it, shall, within two days thereafter, give notice thereof, and of the terms upon which such infant was received, to the state board of charity, with the name, age and residence of the infant, its parents and the persons from whom or by whom respectively it was received; but if such infant was received from the overseers of the poor of any city or town or from the trustees for children of the city of Boston or from any charitable institution incorporated in this commonwealth, such notice may state only the name and age of such infant and the name and location of the board or institution from which it was received.

Notice of reception to state board.
1892, 318, § 7.
1897, 395, § 3.
162 Mass. 596.

SECTION 7. The state board of charity, upon receipt of such notice or of any information of such reception, may investigate the case and make such recommendations as it deems expedient. If they are not complied with, it may apply to a justice of the supreme judicial court, superior court, police, district or municipal court, or to a judge of probate, who, after notice to the parents of such infant or to the persons delivering and receiving it, may make and enforce appropriate orders for the care, custody, protection and maintenance of such infant, and on notice may from time to time revise said orders.

Investigation by board.
1892, 318, § 8.

SECTION 8. Whoever neglects to give the notice required by section six or refuses to give information upon request of said board or to comply with the orders of a court made in accordance with the provisions of the preceding section shall, upon complaint of an agent of said board thereto authorized, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Penalties.
1892, 318, § 9.
162 Mass. 596.

SECTION 9. Whoever gives to any person an infant under two years of age for the purpose of placing it for hire, gain or reward under the permanent control of another person shall be deemed guilty of the abandonment of such infant and shall, if a man, be punished by imprisonment in the house of correction, and if a woman, in the reformatory prison for women, for not more than two years. Whoever for hire, gain or reward receives such an infant for the purpose of placing it under the control of any other

Abandonment of infant.
1892, 318, §§ 10-12.
1897, 395, § 3.

person shall be deemed guilty of aiding and abetting the abandonment of such infant and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years. The provisions of this section shall not apply to the state board of charity, to the overseers of the poor of any city or town, to the trustees for children of the city of Boston, to any incorporated charitable institution or to the officers or agents thereof.

Abandonment of infant.
1882, 270, §§ 1, 2. 1889, 309, § 1.

SECTION 10. Whoever abandons an infant under two years of age within or without any building, or, being its parent and having made a contract for its board or maintenance, absconds or fails to perform such contract, and who for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neither visits nor removes such infant nor notifies the overseers of the city or town in which he resides of his or her inability to support such infant shall be punished by imprisonment, if a man, in the house of correction, or, if a woman, in the reformatory prison for women, for not more than two years; or, if the infant dies by reason of such abandonment, for not more than five years. Whoever knowingly and with wrongful intent aids or abets in abandoning such infant shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years.

Adoption of infants.
1892, 318, § 13.

SECTION 11. Whoever receives an infant under two years of age for adoption or for giving it a home or for procuring a home or adoption for it shall, before receiving the same, ascertain its name, age and birthplace, and the name and residence of its parent or parents, and shall keep a record of the same, and of the date of such reception. He shall forthwith upon the reception of said infant give notice in writing thereof to the state board of charity, and upon request of said board shall give information and render the reports concerning such infant required by it; and within two days after its discharge shall give notice in writing to said board of the discharge and disposal of such infant. Said state board may investigate the case, and, at any time previous to a decree of adoption, take any such infant into its custody, if in the judgment of said board the public interest and the protection of the infant so requires.

Infant may be placed in care of board of charity.
1892, 318, § 14.

SECTION 12. The parents, surviving parent or guardian of an infant under three years of age, if unable to support it, may in writing, with the consent of the state board of charity, place such infant in its charge if said board considers such action for the public interest; and said board may receive such infant and shall thereupon have its custody in the same manner and to the same extent as if it were committed thereto under the provisions of section thirty-seven.

Board may care for certain illegitimate infants.
1892, 318, § 15.

SECTION 13. The mother of an illegitimate infant under two years of age, who is a resident of this commonwealth and who has previously borne a good character, may, in writing signed by her, and with the consent of said state board of charity, give up such infant to said board for adoption; and said state board, if it deems

such action for the public interest, may, in its discretion and on such conditions as it may impose, receive such infant and provide therefor. Such surrender by the mother shall operate as a consent by her to any adoption subsequently approved by said board.

Relationship a defence, when. 1892, 318, § 2.

SECTION 14. In any prosecution under the provisions of the preceding sections of this chapter, except section ten, a defendant who relies in defence upon the relationship of any of said infants to himself shall have the burden of proof thereof.

Special district police officer authorized. 1885, 158. 1895, 310. 1898, 483.

SECTION 15. The governor, upon the written recommendation of the state board of charity, may appoint a special district police officer for a term of three years, who shall be subject to removal at any time by the governor, shall serve without pay, shall have and exercise throughout the commonwealth the powers of a district police officer in all cases arising under the provisions of this chapter, and, under the direction of said board, shall cause the provisions of this chapter to be enforced.

Notice to board of health. 1876, 158. P. S. 80, §§ 60, 61.

SECTION 16. Whoever engages in the business of taking nursing infants or infants under three years of age to board, or of entertaining or boarding more than two such infants in the same house at the same time, shall, within two days after the reception of every such infant other than the first two, give notice thereof in writing to the board of health of the place where such infant is to be so boarded, stating its name and age and the name and residence of the person so taking it to board. The board of health may enter and inspect such house or premises while such business is there carried on, and may direct and enforce the necessary sanitary precautions relative to such children and premises. Whoever violates the provisions of this section or refuses admission to the board of health shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Legitimacy to be ascertained. 1889, 309, § 2. 1891, 194. 1899, 276.

SECTION 17. Whoever receives an infant under the age of three years for board or for the purpose of procuring adoption shall use due diligence to ascertain whether it is illegitimate, and if he knows or has reason to believe that it is, he shall forthwith notify the state board of charity of such reception. The members, officers or agents of said board may enter and inspect any building where they have reason to believe such illegitimate infant is boarded and remove it, if they believe that, by reason of neglect, abuse or other cause, its removal is necessary to preserve its life. Such infant shall be in the custody of said board which shall make provision therefor according to law.

Information may be required. 1882, 270, § 3. 1889, 309, § 3. 1891, 194.

SECTION 18. Whoever receives an infant for board or for the purpose of procuring adoption, as described in the preceding section, and its parents shall, if required by the state board of charity or its officers, give true answers, so far as their knowledge extends, as to the parentage, residence and place of settlement of said infant; and the parent or parents of such child shall, if required by the state board of charity or the overseers of the poor of the city or

town in which the person receiving said infant resides, give satisfactory security to said board or overseers for its maintenance.

Penalties.
1882, 270, § 3.
1889, 309, § 4.

SECTION 19. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

CARE OF PAUPER CHILDREN.

Custody of unsettled infants.
1883, 232, § 3.
1886, 101, § 4.
1893, 217.
1898, 433, § 24.

SECTION 20. The overseers of the poor of a city or town and the superintendent and board of trustees of the state hospital shall commit any indigent or neglected infants which have no known settlement in this commonwealth to the custody of the state board of charity, which shall provide for them in the Massachusetts Infant Asylum or in St. Mary's Infant Asylum or in a family or other suitable place, as it deems expedient for the interests of the child.

Notice to state board of reception of infants.
1870, 136, § 1.
P. S. 86, § 44.
1883, 232, § 2.

SECTION 21. If an infant which has no known settlement in this commonwealth is received by the Massachusetts Infant Asylum or St. Mary's Infant Asylum, agreeably to the provisions of their charters, except as provided in the preceding section, immediate notice of such reception shall be given in writing by the directors of said asylums to the state board of charity, which may examine the case and remove such infant, if expedient. The expense incurred by the asylum for the support of such infant, after the bills for the same have been approved by the state board, shall be reimbursed by the commonwealth to an amount not exceeding four dollars a week for each infant; but the commonwealth shall be under no obligation to reimburse the asylum for any expense incurred for the support of any such infant for a period of more than one week prior to the giving of the notice herein provided for.

Authority of board in such cases.
1870, 136, § 2.
P. S. 86, § 45.

SECTION 22. The state board of charity shall have the same authority relative to any such infant as it has relative to infants in the state hospital.

Provision if asylums are full.
1880, 142, § 1.
P. S. 86, § 46.
1882, 181, § 1.
1883, 232, § 3.

SECTION 23. If said asylums are full of inmates, or if from sickness or other sufficient cause it is not expedient to receive or retain an infant legally committed thereto who is a state pauper, the state board of charity shall provide for such infant in a proper family or other suitable place, under the constant supervision of its medical officers, until it reaches the age of three years or is otherwise provided for by the state board of charity.

Expenses.
1880, 142, § 2.
P. S. 86, § 47.

SECTION 24. The cost of maintaining such infant shall be paid from the appropriation for the support of infants having no known settlement in the commonwealth.

Care of indigent children.
1882, 181, § 2.
1886, 101, §§ 4, 5.
1895, 428, § 1.
1898, 433, § 24.

SECTION 25. The state board of charity shall make all necessary provision for the care and maintenance of poor and indigent children between the ages of three and sixteen years who are in need of immediate relief and who have no lawful settlement in this commonwealth.

CARE OF CHILDREN UNDER SEVEN YEARS OF AGE.

Duties of agents of state board as to infants under seven years of age, 1900, 254, § 1.

SECTION 26. An agent of the state board of charity, specially authorized thereto, may enter without actual force any building or room in which such agent has reason to believe that a child under the age of seven years is sheltered or maintained apart from his parents and is not receiving proper care. The agent shall investigate the case and make report to the superintendent of state minor wards or other designated officer of the board, and such officer may, if he considers such removal necessary for the protection of the child from neglect or abuse, cause such child, if he is not under the personal care of a parent or guardian, to be removed to the custody of the board. An agent who is refused such entry or who is hindered in the removal of such child may make complaint on oath to a justice of a court of record, who may thereupon issue a warrant authorizing him to obtain sufficient aid and at any reasonable time to enter the building designated, and every part thereof, for the purpose of investigating the treatment and condition of the child or children found there, and to remove all or any of such children as herein provided.

Duties of board. 1900, 254, §§ 2–4.

SECTION 27. The agent shall forthwith notify the state board of charity of his doings, and the board shall thereupon decide whether to retain such child in its custody or to restore him to his parent or guardian or to the place from which he was removed. It shall have, as to a child so retained, the powers and duties which it has as to neglected children committed to its custody by the courts. But the board, unless within a reasonable time it secures the commitment of such child, under the provisions of section thirty-seven, shall, upon request, discharge such child to his legal guardian, and if he has no guardian then to his father, and if he has no father then to his mother. The board may notify the person from whose care or custody a child has been taken under the provisions of the preceding section that no child of which he is not the legal guardian shall, without a permit from the board, be received or maintained by him. The board shall apply to the probate court for the removal of the guardian of any child under seven years of age who is unsuitable for his trust.

Penalty. 1900, 254, § 5.

SECTION 28. Whoever obstructs or hinders the state board of charity or its officers or agents in the execution of the duties and powers imposed or conferred by the provisions of the two preceding sections or, after notice as aforesaid, receives a child without having a permit therefor shall be punished by a fine of not more than one hundred dollars for the first offence, and by a fine of not more than one hundred dollars or by imprisonment for not more than six months for a subsequent offence.

CARE OF DESTITUTE AND ABANDONED CHILDREN.

Massachusetts Society for Prevention of Cruelty to Children may be appointed guardian.

SECTION 29. If it appears to the judge of probate of any county that a minor under fourteen years of age resident therein is without a guardian, and is entirely abandoned, or is treated with gross and habitual cruelty by his parent or other person who has the care or

1879, 179, § 1. P. S. 48, § 22.

custody of him, or that he is illegally deprived of his liberty, he may for such period as he sees fit, appoint the Massachusetts Society for the Prevention of Cruelty to Children as his guardian, and may, at any time, for good cause, revoke such appointment. Said society, upon such appointment, shall be entitled to the exclusive custody of said child, but shall not be entitled to the management of his property.

Massachusetts Society for Prevention of Cruelty to Children may receive children under fourteen years from parents.

SECTION 30. The parents, surviving parent or guardian of a child under fourteen years of age, if unable to support him, may by an agreement in writing, fixing the terms of the custody, place him in the charge of said society, which shall thereupon have custody of him as provided in the preceding section. 1879, 179, § 2. P. S. 48, § 23.

Custody of deserted children. 1879, 179, § 3. P. S. 48, § 24.

SECTION 31. A judge of any court, upon the complaint of said society that a child under five years of age has been abandoned and deserted in a public way or place, or in a vacant building, may give the custody of such child to said society for not more than thirty days. The society shall thereupon give such notice thereof, as the judge may order, by advertisement in a newspaper published in the county where such child is found; and such child, if claimed by its parents, parent or guardian, may be returned to them by said judge.

Not obliged to receive child.

SECTION 32. Said society shall not be obliged to receive any child under the provisions of the three preceding sections. 1879, 179, § 4. P. S. 48, § 25.

Hampden County Children's Aid Association. 1880, 231.

SECTION 33. In Hampden county, the provisions of the four preceding sections shall in all respects be applicable to the Hampden County Children's Aid Association. P. S. 48, § 26.

Powers of board of charity.

SECTION 34. The five preceding sections shall not affect the powers of the state board of charity. 1880, 231. P. S. 48, § 27.

Information as to child and right to visit it, how secured. 1896, 288.

SECTION 35. If the parent or guardian of a minor child, who is indentured or placed in charge of any person or association or of a public or private institution by any state, city or town board or by any public or private corporation or body of persons authorized by law to indenture or so place minor children, or if one of the next of kin of an orphan so indentured or placed in charge and without guardian, is not, upon request, informed by such board, corporation or body of persons where the child is, the probate court for the county in which such child has its legal residence may, upon petition of such parent, guardian or next of kin and upon notice, if in its opinion the welfare of the child and the public interests will not be injured thereby, require such board, corporation or body of persons to give the information and permit the parent, guardian or next of kin to visit the child at such time or times and under such conditions as the court shall order; and the court may revise its order or make new orders or decrees upon the petition as the welfare of the child and the public interests may require.

CARE OF CHILDREN UNDER SIXTEEN YEARS OF AGE.

Support by state board. 1900, 397, § 1.

SECTION 36. The state board of charity may, in its discretion, upon the written application of the parent or guardian, or, if there is no parent or guardian, of a friend, of a child under the age of sixteen years who is dependent upon public charity, or upon written application of the overseers of the poor of the city or town in which such child is found, provide for his maintenance.

Commitment of neglected children. 1866, 283, § 3. P. S. 48, § 20. 1882, 181, §§ 3, 4. 1886, 330. 1888, 248, § 1. 1893, 252. 1894, 498, § 28. 1898, 496, § 35; 580, § 2. 1900, 397, §§ 2, 3, 5. 141 Mass. 203. 152 Mass. 432. 161 Mass. 70.

SECTION 37. A police, district or municipal court or a trial justice, upon complaint that any child under sixteen years of age within its or his jurisdiction, by reason of orphanage or of the neglect, crime or drunkenness or other vice of his parents, is growing up without education or salutary control and in circumstances exposing him to lead an idle and dissolute life, or is dependent upon public charity, shall issue a summons requiring the person to whom it is directed to appear at the time and place stated in the summons and show cause why such child should not be committed as hereinafter provided. Such summons shall be directed to the father of the child, if living and resident within the commonwealth, and if not, to the mother of the child if living and resident within the commonwealth; if there is no parent living and resident, to the legal guardian of the child, and if there is none, to the person with whom, according to the statement of the child, he resides; if there is no such person, to some suitable person to act in behalf of such child; and a notice of the hearing shall be sent to the state board of charity. The court or magistrate may commit the child, whether he has or has not a settlement, to the custody of said board until he is twenty-one years of age or for a less time, and said board shall provide for the care and maintenance of the child without expense to the city or town of his settlement and may discharge the child from its custody whenever the object of his commitment has been accomplished. If such child has a settlement and if the overseers of the poor of the place of his settlement so request, the commitment shall be to their custody. The state board shall transfer its custody of any such child, who has a settlement, to the overseers of the poor of the place of settlement upon their request, and such transfer shall thereafter relieve the commonwealth from further liability for his maintenance. The overseers of the poor shall have the same powers as to children committed or transferred to their custody as are given to the state board as to children in its custody and, in the city of Boston, the trustees for children shall have the powers and duties conferred by the provisions of this and the preceding section upon the overseers of the poor.

Appeal. 1900, 397, § 3.

SECTION 38. The child, parent, guardian or person appearing in behalf of such child, and the state board of charity may appeal from the order of the court or justice to the superior court sitting for civil business for the county within which the hearing is held, and if said parent, guardian or other person appearing on behalf of such child fails to furnish such bail as may be required by the court or justice before whom such hearing is held, such child shall be committed to the custody of the state board of charity pending the determination of the appeal.

Children to be placed in private families. 1900, 397, § 4.

SECTION 39. Such children in the care or custody of the state board shall be placed in private families; but in case of illness or change of place or while awaiting trial they may be placed in any suitable institution.

CHAPTER 84.

OF THE STATE BOARD OF CHARITY.

State board of charity, organization, etc. 1863, 240, § 1. 1879, 291, § 2. P. S. 79, § 1. 1886, 101, § 4. 1898, 433, § 24. 131 Mass. 381. 136 Mass. 578.

SECTION 1. There shall be a state board of charity consisting of nine persons, two of whom shall annually in June be appointed by the governor, with the advice and consent of the council, for a term of five years from the seventh day of said month; but in the year nineteen hundred and four and in every fifth year thereafter one member only shall be appointed.

Supervision of state institutions. 1866, 198, § 3. 1879, 291, §§ 3, 4. P. S. 79, § 2. 1884, 323, § 1. 1887, 264. 1895, 428, § 2. 1898, 433, § 24. 1901, 291.

SECTION 2. The board shall have general supervision of the state hospital, the state farm, the Massachusetts state sanatorium, the Lyman school for boys and the state industrial school for girls; and, if directed by the governor, it may assume and exercise the powers of the boards of trustees of said institutions in any matter relative to the management thereof, except the trusts which are vested in the trustees of the Lyman and industrial schools; and may delegate any of its powers and duties to and execute any of its functions by, agents appointed for the purpose or by committees appointed from and by said board.

Officers, etc.; meetings; annual report. 1863, 240, §§ 2–4, 7. 1870, 359, § 1. 1879, 291, § 7. P. S. 79, § 3.

SECTION 3. The board, with the consent of the governor, shall appoint such officers as may be necessary, and fix their compensation, within the limits of the annual appropriation; but no person employed by the board shall be a member thereof. It shall hold meetings once in each month, and oftener if necessary. It shall make its own by-laws and shall annually make a report to the governor and council on or before the thirty-first day of December, of its doings up to the thirtieth day of September, inclusive, embodying therein a properly classified and tabulated statement of its receipts and expenses and of the receipts and expenses of each of the institutions above named for the said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates. The report shall also present a concise review of the work of the several institutions for the preceding year, with such suggestions and recommendations as to them and to the charitable and reformatory interests of the commonwealth, as may be considered expedient. The members of the board and of the boards of trustees of the state institutions above named, shall receive no compensation for their services; but their travelling and other necessary expenses shall be allowed and paid.

Duties of board. 1863, 240, § 5. 1867, 209, § 4. P. S. 79, § 4. 1898, 433, § 24.

SECTION 4. The board shall ascertain whether any paupers in state institutions under its supervision or that of the state board of insanity have settlements in this commonwealth, and shall cause the

laws relative to the support by cities and towns of sane state paupers to be enforced, and shall prosecute all cases of bastardy if the mother has no settlement in this commonwealth. It shall also prepare, from the returns made by overseers of the poor under the provisions of section forty of chapter eighty-one, tables of paupers supported by towns, and print in its annual report the most important information thus obtained.

Visitations.
G. S. 71, § 3.
1870, 359, §§ 1, 2.
1877, 195, § 2.
1879, 291, §§ 1, 3, 5.
P. S. 79, § 5.
1900, 215.

SECTION 5. The board shall at least once in every year visit all places where state paupers are supported, and ascertain from actual examination and inquiry whether the laws relative to such paupers are properly observed, particularly in relation to such as are able to labor; and shall give such directions as will insure correctness in the returns required in relation to paupers; and may use all necessary means to collect information relative to their support. It shall visit the state hospital and the Lyman school for boys, for the purpose of inspection, at least once in each month and, by some woman or women appointed for the purpose, may at all hours of the day or night have access to the portions of said hospital occupied by the women or children there maintained at public expense, and may require from the officers of said institutions information concerning the condition and treatment of the inmates. It shall visit all almshouses which are maintained in cities or towns and shall include in its annual report a statement of their condition and management with its suggestions and recommendations relative thereto.

Certificates used to be provided by board.
G. S. 71, § 5.
1864, 307, § 6.
P. S. 79, § 6.

SECTION 6. The board shall prescribe to the superintendent of the state hospital, the forms for statistical returns to be made by him in his annual report, as to the sex, age and birthplace of the inmates, and the places from which they were sent. It shall also prescribe the form of, and provide cities and towns with blanks for, the certificate required by the provisions of section seven of chapter eighty-five. Such certificate shall contain such inquiries as to the age, parentage, birthplace and former residence of, and other facts relative to, the pauper, as the board considers necessary, to which true answers shall be given before the pauper is received into the hospital.

Annual inventory.
1859, 177, § 2.
G. S. 5, § 11.
P. S. 79, § 7.

SECTION 7. The trustees of each institution named in section two shall annually on the thirtieth day of September cause to be made and sent to the board an accurate inventory of the stock and supplies on hand and the value and amount thereof, under the following heads:—

Live stock on the farm, produce of the farm on hand, carriages and agricultural implements, machinery and mechanical fixtures, beds and bedding in the inmates' department, other furniture in the inmates' department, personal property of the commonwealth in the superintendent's department, ready-made clothing, dry goods, provisions and groceries, drugs and medicines, fuel, library.

Transfer of paupers.
1859, 255.
G. S. 71, § 7.
1863, 240, § 4.
1879, 291, § 3.

SECTION 8. The board may transfer pauper inmates from one state charitable institution to another, or may send them to any state or place where they belong, if the public interest or the necessities of the inmates so require.

P. S. 79, § 9. 1887, 367. 102 Mass. 215. 116 Mass. 570.

Transfer of inmates of Lyman and industrial schools. 1866, 198, § 6. 1876, 14. P. S. 79, § 10.

SECTION 9. On application of the trustees of the Lyman and industrial schools, the board may transfer an inmate of the Lyman school for boys or of the state industrial school whom said trustees consider incorrigible or an unfit subject for said institutions, with the mittimus, to the state farm, there to be held on such mittimus until the term of sentence expires, but the board may return such person, with the mittimus, to the school from which such transfer was made, when in its judgment the object of such transfer has been accomplished.

Selection of paupers for support at state farm. 1872, 45, § 3. P. S. 79, § 12.

SECTION 10. The board may from time to time select for support at the state farm any state paupers whose labor, in domestic or other service at such institution, may contribute toward the cost of their support, or whose maintenance at the same may for special reasons be considered expedient; and in an emergency may transfer any inmates of the state hospital to said institution, there to be supported while the emergency continues; but the board shall not so transfer an inmate of the state hospital to the state farm as a punishment for crime.

Removal to places of settlement, when. 1860, 83, § 1. P. S. 79, § 14.

SECTION 11. If a state pauper, who has received a certificate described in section seven of chapter eighty-five, desires to be sent to any state or place where he has a legal settlement, or to friends willing to support him, the board may remove said pauper instead of committing him, if in its judgment it is for the interest of the commonwealth and of the pauper; but no person shall be so removed, unless, in the judgment of said overseers and of the board, he will otherwise become a charge to the commonwealth for at least one year; and the board shall, in its annual report, return the names of all persons so removed, the places from which and to which they are removed and the cost of each removal.

—proceedings thereon. 1860, 83, § 2. P. S. 79, § 15.

SECTION 12. The names of persons so removed and the usual details of their history shall be entered upon the register of the hospital, and shall be recorded by the several superintendents, as discharged by the board, for the purpose of removal from the commonwealth.

Private societies to report to board. 1867, 243, §§ 1, 2. 1875, 118. P. S. 41, § 15; 79, §§ 16, 17.

SECTION 13. Every private charitable society or institution, if aided by a grant of money from the commonwealth, shall annually prepare and send to the board a written or printed report of all its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of September, stating the amount appropriated by the commonwealth, the amount expended under said appropriation, the whole number and the average number of beneficiaries, the number and salaries of officers and persons employed, and such other information as the board may require. Said report, if in writing, shall be sent in by the fifteenth day of October, and, if in print, by the first day of November.

Returns by charitable corporations. 1899, 259. 1901, 179.

SECTION 14. A charitable corporation whose personal property is exempt from taxation under the provisions of clause three of section five of chapter twelve shall annually, on or before the first day of November, make to the state board of charity a written or printed

report for its last financial year, showing the property, receipts and expenditures, the whole number and the average number of its beneficiaries and such other information as the board may require.

Information to board, of deposits.
1852, 132, §§ 1, 3.
G. S. 57, §§ 151, 153.
1876, 203, § 25.
P. S. 116, § 43.
1894, 317, § 48.
1898, 425, § 6; 433, § 24.

SECTION 15. A treasurer of a savings bank, institution for savings, benefit association, insurance company or safe deposit company who, upon request in writing, signed by an officer of the state board of charity, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request who is a charge upon the commonwealth as a pauper, or who wilfully renders false information in reply to such request shall for each offence forfeit fifty dollars, to the use of the commonwealth.

CHAPTER 85.

OF THE STATE HOSPITAL AND THE STATE FARM.

SECTIONS 1–6. — Trustees of the State Hospital and the State Farm.
SECTIONS 7–27. — The State Hospital and State Paupers.
SECTIONS 28–36. — The State Farm.
SECTIONS 37–40. — Sentences to State Farm.
SECTIONS 41–45. — State Asylum for Insane Criminals.

TRUSTEES OF THE STATE HOSPITAL AND THE STATE FARM.

Trustees of state hospital and state farm.
1852, 275, § 6.
1854, 437, § 3.
1859, 177, § 3.
G. S. 71, § 32.
1879, 291, § 9.
P. S. 86, § 13; 88, § 1.

SECTION 1. There shall be a board of trustees of the state hospital and state farm, consisting of five men and two women, three of whom shall annually in June be appointed by the governor, with the advice and consent of the council, for a term of three years, except that in the year nineteen hundred and three and every third year thereafter only one such trustee shall be so appointed.

1884, 297, § 2. 1887, 264. 1900, 333.

Meetings, reports.
1852, 275, §§ 5, 6, 10.
1854, 189, § 1.
1857, 40, § 1.
1859, 177, § 2.
1864, 288, § 11.
G. S. 71, § 32, 34, 54.
1866, 198, § 2.
1872, 45, § 4.
1876, 199, §§ 1–3.
1879, 291, §§ 7, 9, 10.
P. S. 86, §§ 13, 14, 16, 17, 19, 20, 40; 88, §§ 2, 3.
1883, 278.
1884, 297, §§ 2, 3.
1891, 299.

SECTION 2. The trustees shall hold meetings monthly either at the state hospital or state farm and shall annually, on or before the first day of November, report to the governor and council the condition of such institutions and the expenses of the state hospital in detail for the year ending on the preceding thirtieth day of September, a list of the salaried officers and their salaries, and a copy of the inventory required by the provisions of section seven of chapter eighty-four. One trustee shall visit each institution at least once in each week. The trustees shall appoint a superintendent of the state hospital, who, with the approval of the governor and council, may be the resident physician, and a superintendent of the state farm, each of whom shall hold office at the pleasure of the board and whose compensation shall be fixed by it with the approval of the governor and council. All other officers and employees shall be appointed by the superintendents, subject to the approval of the trustees, who shall fix the compensation in each case, which shall not exceed the appropriation of the general court for that purpose. They shall audit and approve the accounts and bills of the superintendent of the state hospital and of the state

farm before payment. No person employed by the board shall be a member thereof.

Rules, etc.
1852, 275, § 6.
1866, 198, § 2.
G. S. 71, § 32.
1879, 291, §§ 7, 9.
P. S. 86, § 14.
1884, 297, § 2.

SECTION 3. The trustees shall, with the approval of the governor and council, establish rules and regulations for the proper management and government of the state hospital and state farm, and shall see that they are enforced. P. S. 88, § 1.

Other powers of trustees.
1852, 275, § 7.
G. S. 71, § 33.
1879, 291, § 9.
P. S. 86, § 15.

SECTION 4. The trustees shall have the same power as overseers of the poor to bind out minor inmates of the state hospital as apprentices, and to cause the inmates thereof to be returned to the place or country from which they came.

Transfer of inmates.
1884, 297, § 4.
1886, 101, § 4.
1898, 433, § 24.

SECTION 5. The trustees, with the approval of the state board of charity, may transfer inmates to and from the state hospital and the pauper department of the state farm, and, to secure a better classification of the inmates of the two institutions, may transfer to the state hospital discharged prisoners remaining in the state farm.

Superintendents; bond, etc.
1852, 275, § 5.
1854, 189, § 2.
G. S. 71, § 34.
1876, 179, § 1.
1879, 291, § 10.
P. S. 86, §§ 16, 19; 88, § 2.

SECTION 6. The superintendents and resident physicians shall have the right to reside with their families at the state hospital and the state farm respectively. Said superintendents shall receive no other compensation than that provided in section two and no perquisites for their services except as aforesaid: and they shall give bond to the treasurer and receiver general for the faithful performance of their duties in such sums as shall be designated by the rules and regulations of the trustees, and with sufficient surety or sureties to the acceptance of said trustees and subject to the approval of the governor.

THE STATE HOSPITAL AND STATE PAUPERS.

Superintendent to receive paupers.
1852, 275, § 5.
G. S. 71, § 35.
P. S. 86, § 21.
1891, 84.
1897, 395, §§ 3, 4.

SECTION 7. The superintendent shall receive all paupers who are sent with a proper certificate from the state board of charity or from one of the overseers of the poor of a city or town, or from one of the trustees of pauper institutions or from one of the trustees for children, in the city of Boston, or from some one duly authorized by vote of the board of overseers of the poor of any city or town or of the board of trustees of pauper institutions or from one of the trustees for children, of the city of Boston, and provide for them under the rules and regulations herein provided.

Duties of physician of hospital.
1876, 179, §§ 1, 4.
P. S. 86, §§ 16, 18.

SECTION 8. The resident physician of the state hospital shall be competent to take charge of insane inmates, and shall have entire charge of and be responsible for the medical treatment of the inmates of the hospital; shall regulate and control the dietary of the hospital, and shall supervise the preparation of the food for this department; and, if not himself the superintendent, shall from time to time make requisitions upon the superintendent for such food, medicines and necessaries, other than the ordinary supplies, as in his judgment the requirements of a well-ordered hospital demand.

Paupers sent to hospital by cities, etc.
1823, 21, § 1.
R. S. 46, § 30.
1852, 275, §§ 3, 8.

SECTION 9. Cities and towns may, at their own expense, send to the state hospital, to be maintained at the public charge, all paupers who may fall into distress therein, and who have no settle-

ment within the commonwealth. The city or town shall be reimbursed by the commonwealth, upon bills approved by the state board of charity, for the expense of transportation of each state pauper thus sent, for the excess over thirty miles by the usual route, at a rate not exceeding three cents a mile. 1855, 151, § 1; 445, § 1. 1856, 171, § 3. G. S. 71, § 36. 1872, 45, § 2. 1879, 291, § 3. P. S. 86, § 22. 105 Mass. 337.

SECTION 10. No city or town officer or agent having the care and oversight of a sick pauper shall remove or attempt to remove him or cause him to be removed to the state hospital unless there is reasonable cause to believe that such removal will not injure or endanger his health, nor, unless otherwise directed by the state board of charity, until he has first obtained a certificate of a competent physician that, at the request of such officer or agent, he has examined such pauper who, in his opinion, can be so removed without injury or danger to his health. Removal of sick paupers. 1887, 440, §§ 1, 2.

SECTION 11. A city or town officer or agent who violates the provisions of the preceding section, or a physician who gives a false certificate thereunder, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than three nor more than twelve months, or by both such fine and imprisonment. Penalties. 1887, 440, § 3.

SECTION 12. The state board of charity, upon the application of the overseers of the poor of any town, shall make provision in the state hospital or elsewhere for the support of Indians who may be unable to support themselves, and who have not acquired a settlement in any town in the commonwealth; and upon the application of an Indian who received aid from the commonwealth prior to the twenty-third day of July in the year eighteen hundred and sixty-nine, the state board shall furnish to him in the state hospital or elsewhere such aid as it may consider expedient. Poor Indians, support of. 1862, 184, § 2. 1869, 463, § 4. P. S. 86, § 23.

SECTION 13. No city or town shall send to the state hospital any insane person who would be dangerous if at large. Towns not to send dangerous insane person.

1854, 437, § 1. G. S. 71, § 37. P. S. 86, § 24.

SECTION 14. No city or town officer shall send to the state hospital any person who is infected with smallpox or other disease dangerous to the public health, or, except as provided in section ten, any other sick person whose health would be endangered by removal; but all such persons who are liable to be maintained by the commonwealth shall be supported during their sickness by the city or town in which they are taken sick, and notice of such sickness shall be given in writing to the state board of charity, which may examine the case and, if found expedient, order the removal of the patient; but such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the overseers of the poor or by a person appointed by them by special vote, who shall certify, after personal examination, that in their or his opinion such removal at the time of his application for aid would endanger his health. A city or town officer who knowingly violates the provisions of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars. Smallpox patients. 1855, 445, § 2. 1865, 162, §§ 1, 3. 1879, 291, § 3. P. S. 86, §§ 25, 27. 1885, 211.

Expenses.
1855, 151, § 2; 445, § 2.
1865, 162, § 2.
1869, 12.
1879, 291, § 3.
P. S. 86, § 26.
1885, 211.
1891, 153.
1898, 391.
144 Mass. 64.
[1 Op. A. G. 420.]

SECTION 15. The reasonable expense which is incurred by a city or town under the provisions of the preceding section within five days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to the state hospital shall be reimbursed by the commonwealth. The bills for such support shall not be allowed unless they are indorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the city or town treasury, nor unless they are approved by the state board of charity or by a person designated by it; and not more than five dollars a week shall be allowed for the support of a person in a city or town hospital.

Husband and wife not to be separated.
1855, 172.
G. S. 71, §§ 43, 44.
1861, 94.
1866, 234.
P. S. 86, §§ 30, 31.
1885, 211.
110 Mass. 98.

SECTION 16. If a state pauper has a wife who is also a pauper having a legal settlement in this commonwealth, he shall be supported by the place where his wife has her settlement; but the commonwealth, upon written notice to the state board of charity within sixty days after aid is first given to him, shall reimburse such place the cost of such support based upon the expense of supporting him had he been committed to the state hospital.

Cities, etc., to care for state paupers, when.
1853, 352, § 4.
1854, 437, § 2.
G. S. 71, § 46.
P. S. 86, § 32.

SECTION 17. If the state hospital is full, cities and towns shall support state paupers at the expense of the commonwealth until notice is given by the superintendent that they can be received. The superintendent shall give such notice by mail to cities and towns according to the priority of their applications.

Powers of trustees.
1852, 275, § 7.
1855, 445, § 3.
G. S. 71, § 47.
1879, 291, § 9.

SECTION 18. The trustees of the state hospital shall have and exercise the same powers relative to pauper inmates and their property as towns and overseers of the poor have relative to paupers supported or relieved by them. P. S. 86, § 33.

Contracts for employment of inmates, etc.
1858, 168.
G. S. 71, § 48.
1879, 291, § 9.
P. S. 86, § 34.

SECTION 19. The superintendent of the state hospital, with the consent of the trustees, may contract with any person for the employment of any inmate thereof in any kind of lawful labor for such wages or on such terms as the superintendent and trustees approve. If a contract is so made, such inmate shall be discharged from the hospital and, if he refuses to accept the employment offered, he shall forfeit all claim to support as a state pauper.

Liability of towns, etc., for support of state paupers.
1855, 445, § 4.
1856, 108, § 5.
G. S. 71, § 49.
1875, 94, § 1.
P. S. 86, § 35.
1898, 433, § 24.
8 Gray, 455.

SECTION 20. A city or town in which an inmate of the state hospital is found to have a legal settlement shall be liable to the commonwealth for his support in like manner as one town is liable to another in like cases; and in such case, the state board of charity shall adopt such measures relative to notice, removal of a pauper and recovery of expenses as are prescribed for towns in like cases.

—of kindred for support of such paupers.
1855, 445, § 5.
1856, 108, § 5.
G. S. 71, § 50.
1875, 94, § 1.
P. S. 86, § 36.
1898, 433, § 24.

SECTION 21. The kindred who are liable by law to towns for expenses in supporting such paupers shall in like manner be liable to the commonwealth for any expense incurred for such paupers; and the state board of charity may adopt the same measures and institute like proceedings for the recovery of such expenses from the kindred so liable as are prescribed for towns in like cases.

SECTION 22. Whoever escapes from the state hospital and within one year thereafter is found in any city or town soliciting public charity shall be punished by imprisonment at the state farm.

Punishment for escape. 1852, 275, § 9. G. S. 71, § 51.

P. S. 86, § 37. 1884, 258, § 1. 1898, 443.

SECTION 23. A justice of the superior court, or of a police, district or municipal court, or a trial justice, upon complaint of the overseers of the poor of any place or of the state board of charity, may, by warrant directed to a constable or other person therein designated, cause any pauper not born nor having a settlement in this commonwealth, who may conveniently be removed, to be conveyed, at the expense of the commonwealth, to any other state, or, if not a citizen of the United States, to any place beyond sea, where he belongs.

Foreign paupers to be deported. 1766–7, 17, §§ 1-3. 1793, 59, § 13. R. S. 46, § 17. 1850, 105, § 4. G. S. 71, § 52. P. S. 86, § 38.

SECTION 24. Upon complaint of the trustees of a state insane hospital, the trustees of the state hospital and state farm, the county commissioners or the overseers of the poor, a judge of probate shall have the same powers as are given by the provisions of the preceding section to cause the removal of insane state paupers under their charge to any other state, or to any place beyond sea, where they belong.

Insane state paupers to be deported. 1854, 437, § 4. G. S. 71, § 53. P. S. 86, § 39. 1884, 297, § 2. 1887, 264. 1898, 433, § 23.

SECTION 25. All accounts for the maintenance of the state hospital and the state farm and the support of the inmates shall be approved by the trustees and filed with the auditor at the end of each month, and paid by the commonwealth.

Accounts of hospital. 1854, 189, § 5. G. S. 71, § 55. 1874, 360, § 2. P. S. 86, § 41.

SECTION 26. Nothing shall be allowed from the treasury of the commonwealth to any county, city or town for expenses incurred on account of any state pauper, except as expressly provided by law.

No allowance to county, etc., for state paupers, except.

G. S. 71, § 56. P. S. 86, § 42.

SECTION 27. All accounts against the commonwealth for allowance to counties, cities and towns on account of state paupers shall be rendered to the state board of charity on or before the third Wednesday of January annually; and shall be so made as to include all claims for such charges up to the first day of said January, and, if approved by the board and certified by the auditor of accounts, shall be paid by the commonwealth. The state board may require such accounts to be accompanied with such statement of particulars and facts, and substantiated by such affidavits, as it orders.

Accounts of counties, etc., how audited. 1823, 21, § 2. 1830, 120. 1835, 127. R. S. 46, §§ 31-33. 1841, 116, § 3. 1849, 151, 207. 1851, 42. 1853, 366, § 2. G. S. 71, § 57. P. S. 86, § 43.

THE STATE FARM.

SECTION 28. The superintendent shall have the management and control of the state farm and its operations.

Duties of superintendent. 1866, 198, §§ 2, 4. P. S. 88, § 2.

SECTION 29. The state board of charity shall have general supervision of the state farm, and shall have the same power to discharge persons confined therein for any cause, or to apprentice or discharge any person committed under the provisions of the following section, as county commissioners have over inmates of houses of correction.

Duties of state board of charity. 1866, 198, § 3. 1869, 258, § 2. 1877, 147. 1879, 291, § 3. P. S. 88, §§ 4, 6.

1886, 101, § 4.
1898, 433, § 24.

It shall also have all the powers, not herein given to the superintendent and trustees, which overseers of the poor have relative to town workhouses.

Vagabonds may be committed.
1866, 198, § 5.
1869, 258, § 1.
1870, 19; 288, § 1.
P. S. 88, § 5.
1897, 395, § 4.
1898, 443, § 1.

SECTION 30. Upon complaint of one of the overseers of the poor of a city or town, or in Boston of the pauper institutions trustees, police, district and municipal courts and trial justices may in their discretion commit persons who have been convicted of any of the offences enumerated in sections forty-six and fifty-five of chapter two hundred and twelve to the state farm.

State board may deport or discharge such persons.
1869, 258, § 2.
1877, 147.
P. S. 88, § 6.
1898, 443, § 1.

SECTION 31. The state board of charity may cause any person committed under the provisions of the preceding section, who has no legal settlement in this commonwealth, to be removed to the state or place where he belongs, or whence he came, in accordance with law. A person so removed who returns to this commonwealth before the expiration of his sentence may be re-arrested and returned to the state farm, there to serve out the remainder of his sentence.

Support to be paid by place of settlement, when.
1869, 258, § 3.
P. S. 88, § 7.

SECTION 32. If any person so committed has a legal settlement in a city or town in this commonwealth, such city or town shall pay for his support such amount per week as, having regard for his capacity for labor, may be fixed upon by the state board of charity; but upon written request of the overseers of the poor, the state board shall permit him to be transferred to the workhouse of his place of settlement, there to serve out the remainder of his sentence.

Penalty for escape.
1866, 198, § 5.
1870, 288, § 3.
1880, 257, § 8.
P. S. 88, § 8.

SECTION 33. Whoever being sentenced to the state farm escapes or attempts to escape therefrom, or from the custody of the officer while being conveyed to said farm, may be pursued and reclaimed; and shall be punished by imprisonment at said farm, and may be there held in custody for not more than six months in addition to his previous sentence.

—of inmates not sentenced.
1884, 258, § 1.
1898, 443, § 1.

SECTION 34. Whoever, not being a sentenced inmate of the state farm, absconds or escapes therefrom and within one year thereafter is found within any city or town soliciting public charity shall be punished by imprisonment at the state farm.

Complaints for escapes.
1884, 258, § 2.
1889, 245.
1895, 444, § 14.
1897, 395, § 4.

SECTION 35. Complaints for violations of the provisions of the preceding section and of section twenty-two may be made and prosecuted by any overseer of the poor or by the pauper institutions trustees of the city of Boston or by agents, not exceeding two, appointed by the state board of charity and designated for such purpose. The police court of Lowell may, at such times as it appoints, hold sessions at Tewksbury for the trial of such complaints against inmates of the state hospital.

Jurisdiction.
1884, 258, § 3.

SECTION 36. The police court of Lowell shall have jurisdiction of said offences concurrent with any other court having jurisdiction thereof if committed in any part of the county of Middlesex without the district of said court, and the police court of Lawrence and

the first district court of Essex shall have the same concurrent jurisdiction of said offences if committed in any part of the county of Essex without their respective districts.

SENTENCES TO STATE FARM.

Sentences to state farm. 1898, 443, § 1.

SECTION 37. In imposing a sentence of imprisonment at the state farm, the court or trial justice shall not fix or limit the duration thereof. Whoever is sentenced to the state farm for drunkenness may be there held in custody for not more than one year, and whoever is so sentenced for any other offence may be there held in custody for not more than two years, except as provided in section thirty-three.

Release on probation. 1862, 189. 1880, 221, § 3. P. S. 220, § 68. 1898, 443, § 2.

SECTION 38. If it appears to the state board of charity that a person serving a sentence at the state farm has reformed, it may, upon such conditions as it may determine, issue to him a permit to be at liberty for the residue of the period for which he might be held, and may revoke it at any time previous to its expiration.

Return of convict to farm. 1884, 152, § 2. 1898, 443, § 3.

SECTION 39. Upon the revocation of such permit, said board may issue an order for the return of the holder thereof to the state farm, which may be served by any officer authorized to serve criminal process. Upon his return to the state farm, the holder of such permit shall be detained for the residue of the term for which he might be held under the provisions of section thirty-seven and the time between his release on permit and said return shall not be considered as any part of said term.

Special district police officers. 1901, 185.

SECTION 40. The governor, upon the written recommendation of the state board of charity, may from time to time appoint two or more agents of said board as special district police officers, who shall serve without pay, for terms of three years each unless sooner removed and who shall have authority to return prisoners to the state farm, under the provisions of the preceding section.

STATE ASYLUM FOR INSANE CRIMINALS.

Asylum for insane criminals. 1886, 219, § 1. 1895, 390, §§ 1, 2.

SECTION 41. The state asylum for insane criminals shall be a part of the state farm, and the superintendent of the state farm, with the approval of the trustees, shall appoint a physician as medical director of said asylum and shall fix his salary. The director shall have the care and custody of the inmates thereof, and govern them in accordance with regulations approved by the trustees.

Transfers. 1895, 390, § 5. 1898, 433, § 28. [1 Op. A. G. 322, 528.]

SECTION 42. The state board of insanity may transfer to and from the state insane hospitals and the asylum for insane criminals any of the insane male persons mentioned in section sixteen of chapter two hundred and eighteen, sections twelve, fifteen and sixteen of chapter two hundred and nineteen and sections one hundred and one to one hundred and three, inclusive, of chapter two hundred and twenty-five if such transfer will insure a better classification of insane criminals.

Commitments.
1894, 251, § 1.
1895, 390, § 6.
1898, 433, § 28.

SECTION 43. The state board of insanity may transfer and commit to the asylum for insane criminals any inmate of a state insane hospital, of the Worcester insane asylum or of the state farm, committed to said institutions from the state prison, the Massachusetts reformatory, the jails and houses of correction of the several counties.

Return of inmates.
1894, 251, § 2.
1895, 390, § 6.

SECTION 44. If in the judgment of the trustees and the superintendent of the state farm any person committed under the provisions of the preceding section ought to be returned to the institution to which he was originally committed, a statement thereof shall be certified upon the mittimus or warrant of commitment and notice shall be given to the master, warden or superintendent of such institution, who shall thereupon cause said person to be reconveyed to said institution there to remain pursuant to the original sentence computing the time of his detention in the asylum for insane criminals as part of the term of his imprisonment.

Retention of former inmates.
1895, 390, § 6.

SECTION 45. Inmates of said asylum on the seventeenth day of June in the year eighteen hundred and ninety-five shall continue to be held therein according to law.

CHAPTER 86.

OF THE LYMAN SCHOOL FOR BOYS, THE INDUSTRIAL SCHOOL FOR GIRLS AND THE REFORMATION OF JUVENILE OFFENDERS.

SECTIONS 1–9. — Trustees, Superintendents and Other Officers.
SECTIONS 10–54. — Juvenile Offenders.

TRUSTEES, SUPERINTENDENTS AND OTHER OFFICERS.

Trustees of Lyman and industrial schools.
1847, 165, §§ 1, 14.
1848, 305.
1850, 112, § 2.
1855, 442, §§ 1, 24.
1856, 63.
1859, 177, § 3.
G. S. 75, § 1; 76, §§ 1, 2.
1868, 153.
1873, 166.
1877, 195, § 1.
1879, 291, § 8.
P. S. 89, § 1.
1884, 323, § 1.
1895, 428, §§ 2, 4.
136 Mass. 581.

SECTION 1. The government of the state industrial school for girls at Lancaster, and the Lyman school for boys at Westborough, and the custody of all children committed thereto, shall be vested in a board of seven trustees, two of whom shall be women, who shall be known as the trustees of the Lyman and industrial schools. The trustees shall be appointed by the governor, with the advice and consent of the council, for a term of five years. Two members shall retire each year for two years successively, and one member a year for three years successively. No person who is employed by the board and receives compensation shall be a member thereof. The board shall be a corporation for the purpose of taking, holding and investing, in trust for the commonwealth, any grant, devise, gift or bequest made for the use of any institution of which they are trustees; and they shall succeed to the trusts and powers formerly held or acquired by the boards of trustees and treasurers of the state reform and the state industrial schools, and shall retain all the trusts, rights, powers and duties of the trustees of the state primary and reform schools.

Officers of schools.
1847, 165, § 2.
1855, 442, § 2.

SECTION 2. The trustees shall annually elect a superintendent and a physician of each of said schools, and shall, subject to the

approval of the governor and council, fix their compensation. The superintendent of each school shall, with the approval of the trustees, appoint the other officers and fix their compensation; but the amount paid for such salaries shall not exceed in the aggregate the appropriation by the general court for the purpose.

G. S. 75, § 2; 76, § 4. 1879, 291, § 10. P. S. 89, § 2.

SECTION 3. The trustees shall have the control of the land and buildings of the Lyman and industrial schools, shall take charge of the general interests of each institution, see that its affairs are conducted according to law and according to such by-laws as they may from time to time adopt, and that strict discipline is maintained therein; provide employment for the inmates, and bind out, discharge, or remand them, as hereinafter provided; exercise a vigilant supervision over the institution, its officers and inmates, and prescribe the duties of the officers. The by-laws may be amended by the assent of five trustees at a legal meeting; but no amendment shall be valid until approved by the governor and council.

Powers and duties of trustees. 1847, 165, § 2. 1855, 442, § 2. G. S. 75, § 2; 76, §§ 3, 4. 1879, 291, § 8. P. S. 89, § 8.

SECTION 4. The trustees shall cause the girls and boys under their charge to be instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity; and in some regular course of labor, either mechanical, manufacturing, agricultural or horticultural, for the boys; or mechanical, manufacturing or horticultural, and especially in domestic and household labor and duties, for the girls; or a combination of these, as may be best suited to their age, strength, disposition and capacity; and in such other arts, trades and employments as may seem to the trustees best adapted to secure their reformation, amendment and future benefit.

Instruction, etc., of boys and girls. 1847, 165, § 9. 1855, 442, § 19. G. S. 75, § 20; 76, § 5. P. S. 89, § 9.

SECTION 5. One or more of the trustees shall visit each school at least once in every two weeks. At such time the girls and boys shall be examined in the school rooms and workshops and the registers shall be inspected. A record shall be kept of these visits in the books of the superintendents. Once in every three months, each school in all its departments shall be thoroughly examined by a majority of the trustees, and a report thereof made to the board. On or before the fifteenth day of October in each year, an abstract of these quarterly reports shall be prepared, which, with a full report by the superintendents, a list of the salaried officers and their salaries, and a copy of the inventory required by the provisions of section seven of chapter eighty-four shall be laid before the governor and council for the information of the general court.

Examination of schools, records, reports. 1847, 165, § 15. 1855, 442, § 25. 1857, 40, § 1. 1859, 177, § 2. G. S. 75, § 25; 76, § 7. 1880, 208, § 4. P. S. 89, § 10.

SECTION 6. The superintendent of each school, with the subordinate officers, shall have the general charge and custody of the inmates thereof. He shall be a constant resident at the school, and, under the direction of the trustees, shall discipline, govern, instruct and employ, and use his best endeavors to reform, the inmates in such manner as shall, while preserving their health and promoting their proper physical development, secure the formation of moral, religious and industrious habits, and of regular and thorough progress and improvement in their studies, trades and employments.

Superintendents, duties of. 1847, 165, § 10. 1855, 442, § 20. G. S. 75, § 21; 76, § 8. P. S. 89, § 11.

Superintendents, bond, accounts of, etc.
1847, 165, § 11.
1855, 442, § 21.
G. S. 75, § 22; 76, § 9.
P. S. 89, § 12.

SECTION 7. Each superintendent shall before entering upon his duties give bond to the commonwealth, with sureties approved by the governor and council, in the sum of two thousand dollars, conditioned that he shall faithfully perform all his duties and account for all money received by him as superintendent. The bond shall be filed in the office of the treasurer and receiver general. Each superintendent shall have charge of all the property of the institution within the precincts thereof. He shall keep accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution; and shall account to the trustees, in such manner as they may require, for all money received by him. His books and all documents relative to the school shall at all times be open to the inspection of the trustees, who shall at least once in every six months carefully examine the books and accounts, and the vouchers and documents connected therewith, and make a record of the result of such examination. He shall keep a register, containing the name, age and circumstances connected with the early history of each girl or boy, and shall add such facts as come to his knowledge relative to her or his history while at the institution, and after leaving it.

Purchase of books with Rogers fund.
1857, 215.
G. S. 75, § 22.
P. S. 89, § 13.

SECTION 8. The superintendent of the industrial school shall, under the direction of the trustees, purchase books with the income and profits, and according to the terms, of the donation of Henry B. Rogers.

Superintendents to make all contracts in writing.
1847, 165, § 12.
1855, 442, § 22.
G. S. 75, § 23; 76, § 10.
P. S. 89, § 14.

SECTION 9. Each superintendent shall make all contracts on account of the institution in writing, with the approval of the trustees if their by-laws require it; and he or his successor may sue or be sued thereon to final judgment and execution. No suit shall abate by reason of the office of superintendent becoming vacant, but any successor in office may take upon himself the prosecution or defence thereof; and upon motion of the adverse party and notice, he shall be required so to do.

JUVENILE OFFENDERS.

Commitments, by whom made.
1847, 165, § 4.
1855, 442, § 8.
1861, 200.
1870, 359, § 7.
1871, 365.
1872, 358, § 1.
1874, 258, §§ 1, 4.
1877, 210, § 5; 211, § 6.

SECTION 10. Boys under fifteen years of age may be committed to the Lyman school by police, district and municipal courts and trial justices, and, except in the county of Suffolk, by judges of probate. Girls under seventeen years of age may be committed to the industrial school by said courts, judges and justices, except as aforesaid, and, except in the county of Suffolk, by commissioners, as hereinafter provided in this chapter.

P. S. 89, § 15. 1884, 255, § 11; 323, § 3.

Revision of sentence of boys over fifteen.
1884, 322, § 3.

SECTION 11. If, within twenty days after the commitment of a boy to the Lyman school, the trustees have reason to believe that at the time of his commitment he was more than fifteen years of age, they may apply to the court by which the commitment was made for a revision of sentence, and if it finds that he was not under fifteen years of age at the time of his commitment, shall impose such sentence as should have been imposed.

SECTION 12. Judges of probate, except in the county of Suffolk, may receive complaints, issue warrants and hear cases against juvenile offenders at such times or places, in or out of their respective counties, as convenience may require. The judge of probate may act in such case for the judge of any other county, whether absent or not, if so requested.

Judges of probate may act in any county except Suffolk. 1855, 442, § 9. 1870, 359, § 13. P. S. 89, § 16.

SECTION 13. Upon request of the mayor and aldermen, selectmen or overseers of the poor of a city or town, except in the county of Suffolk, the governor, with the advice and consent of the council, shall appoint and commission, in the same manner as justices of the peace are appointed and commissioned, one or more suitable persons residing in such city or town, who may therein hear and determine complaints against girls and make commitments to the industrial school under the provisions of this chapter.

Commissioners to hear complaints against girls. 1855, 442, § 9. G. S. 75, § 5. P. S. 89, § 17.

SECTION 14. Upon complaint against any boy or girl between the ages of seven and seventeen years, for any offence not punishable by death or imprisonment for life, such court or magistrate shall examine on oath the complainant and the witnesses produced by him, shall reduce the complaint to writing and cause it to be subscribed by the complainant, and may issue a warrant reciting the substance of the accusation and requiring the officer to whom it is directed forthwith to take the person accused and bring him or her before said court or magistrate, to be dealt with according to law; and to summon such witnesses as shall be named therein to appear and give evidence on the examination.

Warrants to apprehend boys and girls. 1855, 442, §§ 4, 8. 1859, 286, §§ 1, 4. 1861, 200. 1863, 139, § 2. 1864, 202, § 2. 1870, 359, § 7. 1871, 365. 1872, 68, § 5; 358, § 4. P. S. 89, § 18. 122 Mass. 330. 127 Mass. 450. 146 Mass. 492. 167 Mass. 420.

SECTION 15. Upon complaint against a child under twelve years of age for an offence not punishable by death or imprisonment for life, except the offence of being an habitual truant or an habitual school absentee under the provisions of sections three and four of chapter forty-six, such court or magistrate shall, if an examination is considered necessary, first issue a summons to said child requiring him to appear before such court or magistrate at the time and place named therein, and, if the child fails to appear as directed by said summons, shall issue a warrant for his arrest.

Summons instead of warrant, when. 1882, 127, §§ 3, 4.

SECTION 16. Police, district and municipal courts shall try juvenile offenders separate and apart from the trial of other criminal cases, at suitable times which shall be designated therefor by said courts and shall be called the session for juvenile offenders, for which a separate docket and record shall be kept.

Separate trial of juvenile offenders. 1874, 258, § 3. 1877, 210, § 5. P. S. 89, § 19.

SECTION 17. If a boy or a girl is brought on a complaint under the provisions of sections fourteen and fifteen before such court or magistrate, a summons shall be issued to his or her father, if living and resident within the place where he or she was found, and, if not, then to the mother, if she is living and so resident; and, if there is no such father or mother, then to the lawful guardian, if there is one so resident: if not, then to the person with whom, according to the statement of such boy or girl, and such testimony as shall be received, he or she resides; and if there is no such person, the court or magistrate may appoint a suitable person to act in behalf of such boy or

Proceedings before judge, etc. 1855, 442, § 4. 1859, 286, § 1. G. S. 75, § 6; 76, § 17. 1870, 359, § 8. P. S. 89, § 20. 1883, 110. 1886, 101, § 4. 1898, 433, § 24. 5 Allen, 509.

girl, requiring him or her to appear at a time and place stated in the summons and show cause why such boy or girl should not be committed to the Lyman school or industrial school respectively. If the court or magistrate is of the opinion that such boy or girl should, if guilty, be sent to a public institution or committed to the custody of the state board of charity, he or it shall cause written notice of such complaint to be given by mail or otherwise to the board, which shall have an opportunity to investigate the case, attend the trial and protect the interests of, or otherwise provide for, the child.

Child may be committed to jail, or bailed.
1870, 359, § 9.
P. S. 89, § 21.
1882, 127, § 1.

SECTION 18. Such boy or girl of twelve years of age or over, who is arrested on any complaint referred to in sections fourteen and fifteen, may be held or committed to jail by the officer having said child in custody until the time appointed for the trial, unless admitted to bail as provided in section fifty-six of chapter two hundred and seventeen, and the judge of probate, as well as the magistrates named in said section, may admit to bail.

Disposition in default of bail, if under twelve.
1882, 127, § 2.

SECTION 19. A child under twelve years of age who is held for examination or trial, if unable to furnish bail, shall be committed to the custody of the state board of charity, which shall provide for his safe keeping and for his appearance at his examination or trial at the time and place named in the mittimus.

Commitments of young children limited.
R. S. 143, § 18.
1859, 286, § 3.
G. S. 174, § 15.
1865, 208, § 1.
P. S. 215, § 18.
1882, 127, § 1.

SECTION 20. A child under twelve years of age shall not be committed to a jail or house of correction, to the state farm, or to the house of correction at Deer Island in the city of Boston, in default of bail, or for the non-payment of a fine or upon conviction of any offence not punishable by death or imprisonment for life.

1890, 440, § 3. 1896, 536, § 9.

State board may indenture child upon request.
1869, 453, § 4.
1870, 359, § 10.
1871, 365.
1876, 121, § 2.
P. S. 89, §§ 22, 50.
1895, 428, § 4.
146 Mass. 494.
[1 Op. A. G. 405.]

SECTION 21. The court or magistrate, before whom a boy or girl is brought on a complaint under the provisions of sections fourteen and fifteen, upon request of the state board of charity, may authorize said board to take and indenture, or place in charge of any person, or, if he or she proves unmanageable, to commit such boy, if under fifteen years of age, to the Lyman school or such girl, if under seventeen years of age, to the industrial school, until he or she attains the age of twenty-one years. Said board may provide for the maintenance, in whole or in part, of any such boy or girl so indentured or placed in charge of a person. The state board may discharge from custody any child who has been committed to its care under the provisions of this section.

Examination, trial, commitment.
1847, 165, § 4.
1855, 442, §§ 4, 5.
1859, 170, § 3; 286, §§ 1, 3.
G. S. 75, § 7; 76, §§ 18, 19.
1862, 9.
P. S. 89, §§ 23, 24.

SECTION 22. At the time named in the summons, such court or magistrate shall examine the boy or girl and any person who appears in answer to the summons, and take such testimony relative to the case as may be produced. If the allegations are proved, and it appears that the boy or girl is a suitable subject for the Lyman or industrial school, and that his or her moral welfare and the good of society require that he or she should be sent thereto for instruction, employment or reformation, a warrant of commitment shall be issued in substance as follows: —

To the sheriff of our county of M. , or either of his deputies, or any constable or police officer of the town of B. , in the county of .
You are hereby commanded to take charge of C. D., a boy [or girl] between the ages of seven and fifteen [or seventeen if a girl] years, who has been proved to be a suitable subject for the Lyman school, [or state industrial school for girls,] and a proper object for its care, discipline and instruction, and deliver said boy [or girl], without delay, to the superintendent of said school, or other person in charge thereof, at the place where the same is established. And for so doing this shall be your sufficient warrant.
Dated this day of 19 , at , in the county of in the commonwealth of Massachusetts.

No variance from said form shall be considered material if it sufficiently appears upon the face thereof that the boy or girl is committed by the court or magistrate in the exercise of the powers conferred by this chapter. The warrant may be executed by any officer qualified to serve civil or criminal process in the county in which the case is heard. Accompanying the warrant, the court or magistrate shall transmit to the superintendent, by the officer serving it, a statement of the substance of the complaint and testimony given in the case, and such other particulars relative to the boy or girl committed as can be ascertained.

Certificate of residence and age of boy or girl.
1858, 25.
1859, 286, § 1.
G. S. 76, § 19.
P. S. 89, § 24.

SECTION 23. The court or magistrate shall certify in such warrant the age of such boy or girl as near as can be ascertained, and the place in which he or she resided at the time of arrest, and such certificate, for the purposes of this chapter, shall be conclusive evidence of his or her residence. 146 Mass. 489.

Commitment of vagrant girls.
1855, 442, § 4.
G. S. 75, §§ 6, 7.
P. S. 89, § 25.
5 Allen, 509.

SECTION 24. Upon complaint that a girl is leading an idle, vagrant or vicious life, or has been found in any street, highway or public place, in circumstances of want and suffering, or of neglect, exposure, abandonment or beggary, the proceedings shall be had which are prescribed in sections seventeen to nineteen and twenty-one to twenty-three, inclusive.

Second commitments, as to.
1855, 442, § 6.
G. S. 75, § 10; 76, § 22.
P. S. 89, § 26.

SECTION 25. If a boy or girl who has been previously committed to the Lyman or industrial school is again brought before such court or magistrate upon any such complaint, the case may be examined and a warrant issued for a recommitment of such boy or girl, without issuing the summons required by the provisions of section seventeen.

Sentence of boys, etc., unfit for such schools.
1859, 286, § 3.
G. S. 76, § 23.
1872, 68, § 5.
P. S. 89, § 27.

SECTION 26. If a boy or girl who is found guilty before a police, district or municipal court, or a trial justice, is not considered a fit subject for the Lyman or industrial school, he or she shall be sentenced or bound over to appear before the superior court according to the usual course of criminal proceedings.

—by judge of probate.
1870, 359, §§ 11, 12.
P. S. 89, §§ 28, 29.
108 Mass. 492.
127 Mass. 450.

SECTION 27. If a boy or a girl is found guilty by the judge of probate of any offence which is not punishable by a capital or infamous punishment, unless disposed of as provided in section twenty-one, the boy may be sentenced and committed to the Lyman school if under fifteen years of age, or to any institution established by law for the reformation of juvenile offenders, and the girl may be

sentenced and committed to the industrial school if under seventeen years of age, or in either case, the judge may, in his discretion, impose such other punishment as is provided for the offence.

Appeal.
1855, 442, § 7.
1859, 286, § 2.
G. S. 75, § 12; 76, § 24.
P. S. 89, § 30.
108 Mass. 492.

SECTION 28. A boy or girl who is ordered to be committed to the Lyman or industrial school, respectively, or sentenced as aforesaid, may appeal to the superior court, and the appeal shall be there entered, tried, and determined in like manner and subject to like provisions as appeals from trial justices in criminal cases.

Return of warrants for commitment of girls.
1861, 116.
P. S. 89, § 31.

SECTION 29. Warrants issued by judges of probate, trial justices or commissioners, for the commitment of girls to the industrial school, may be returned to the clerks of the superior court, and all fees thereon shall be allowed in the same manner as expenses are allowed in criminal proceedings.

Service of summons.
1855, 442, § 5.
G. S. 75, § 8; 76, § 20.
1863, 139, § 3.
P. S. 89, § 32.

SECTION 30. A summons to appear before a court or magistrate as provided in section seventeen, unless service thereof is waived in writing, shall be served by a constable or police officer by delivering it personally to the person to whom it is addressed, or by leaving it with a person of sufficient age at the place of residence or business of such person; and said constable or police officer shall immediately make return to the same court or magistrate of the time and manner of such service.

Fees of judges and officers.
1855, 442, § 10.
G. S. 75, § 11; 76, § 25.
P. S. 89, § 33.

SECTION 31. The fees and compensation allowed to judges of probate and commissioners under the provisions of this chapter shall be the same as by law are allowed to trial justices; and all officers serving process shall be allowed the same fees as they are entitled to for serving process in criminal proceedings.

Boys convicted in superior court may be sentenced to Lyman school, when.
1859, 170, § 3; 286, § 4.
G. S. 76, § 26.
1863, 139, § 1.
1864, 202, § 1.
1872, 68, § 5.
P. S. 89, § 34.
120 Mass. 388.

SECTION 32. If a boy between the ages of seven and fifteen years is convicted in the superior court of an offence which is punishable by imprisonment other than imprisonment for life, he may be sentenced to the Lyman school or to such punishment as is otherwise provided by law. Upon a commitment under the provisions of this section, the statement and certificate required by sections twenty-two and twenty-three shall be made and transmitted as therein provided.

Term of detention.
1847, 165, §§ 5, 7.
1855, 442, §§ 5, 11, 13.
1859, 286, § 4.
G. S. 75, § 13; 76, § 27.
1863, 184, § 1.
1864, 290.
P. S. 89, § 35.
1895, 428, § 4.

SECTION 33. All boys and girls who are committed to the Lyman school or the industrial school shall be there kept, disciplined, instructed, employed and governed, under the direction of the trustees, until they attain the age of twenty-one years, or are bound out or otherwise legally transferred or discharged. The discharge of a boy as reformed, or upon attaining the age of twenty-one years, shall be a complete release from all penalties and disabilities created by the sentence.

Corporal punishment regulated.
1877, 235.
P. S. 89, § 36.

SECTION 34. Corporal punishment shall be permitted in the Lyman school only under such rules and regulations and by such modes as shall be prescribed by the trustees. No such punishment shall be inflicted except by the direction of the superintendent or

assistant superintendent in charge, to whom the offence shall be reported, and who shall designate the nature and extent of punishment to be inflicted. In every case of such punishment, a record of the offence and the mode and extent of the punishment shall be made and presented to the trustees at their next meeting.

Chapter applicable to boys and girls convicted in United States courts.

SECTION 35. The provisions of this chapter relative to the Lyman or industrial school shall extend to boys and girls who are committed by authority of the courts or magistrates of the United States. 1866, 274. P. S. 89, § 37. 1887, 426, § 2.

Release on probation. 1895, 428, §§ 3, 4.

SECTION 36. The trustees of the Lyman and industrial schools may release on probation, and, with or without indenture, may, subject to the provisions of section fifty-two, place children in their custody in their usual homes or in any situation or family which has been investigated and approved by said trustees. They may employ agents for investigating places and for visiting children, and immediately on placing such children shall give notice to the state board of charity of the name of each child so placed and of the name and residence of the person to whose care he is entrusted. They may, at any time until the expiration of the period of commitment, resume the care and custody of children who are released on probation and recall them to the school to which they were originally committed.

Binding out girls and boys. 1847, 165, § 8. 1850, 112, § 1. 1855, 442, §§ 14, 19. 1858, 110. G. S. 75, §§ 15, 20; 76, § 6. P. S. 89, § 38.

SECTION 37. The trustees may bind out as an apprentice or servant any girl committed to their charge until she is eighteen years of age, and any boy until he is twenty-one years of age, or for any less term; and the trustees, master or mistress, apprentice or servant, shall be subject to the provisions of chapter one hundred and fifty-five, in the same manner as if such binding or apprenticing were made by overseers of the poor. In binding out girls and boys, the trustees shall have scrupulous regard to the religious and moral character of those to whom they are to be bound, that they may secure to the girls and boys the benefit of a good example and wholesome instruction, and the best means of improvement in virtue and knowledge, and thus the opportunity of becoming intelligent, moral, useful and happy.

Terms of indentures of girls. 1855, 442, § 18. G. S. 75, § 15. P. S. 89, § 39.

SECTION 38. The master to whom a girl is bound shall, by the terms of the indenture, be required to report to the trustees, at least once in every six months, her conduct and behavior, and whether she is still living under his care, and, if not, where she is.

— of girls and boys. 1869, 302, § 1. 1879, 291, § 3. P. S. 89, § 40.

SECTION 39. If a minor is bound out as an apprentice or servant by the trustees of the state hospital or the trustees of the Lyman and industrial schools, the indenture shall provide that, if at any time it appears to the trustees by whom the same is executed or their successors in office that the further continuance of the indenture will be prejudicial to the well-being of the apprentice or servant, the board may annul the indenture by giving written notice to the master of their intention to cancel the same, stating their reasons therefor, and may forthwith remove the said apprentice or servant from the care and keeping of the said master.

Execution of indenture not a discharge. 1869, 302, § 2. P. S. 89, § 41.

SECTION 40. The execution of such conditional indenture shall not operate as a discharge of the minor from confinement under any sentence or order of commitment; and if any such indenture is cancelled, the trustees shall have the same power and authority relative to the minor as before it was made.

Indenture of apprenticeship of girls not to be assigned. 1855, 442, § 15. G. S. 75, § 16. P. S. 89, § 42.

SECTION 41. A person who receives a girl as apprentice under the provisions of this chapter shall not assign or transfer the indenture of apprenticeship nor let out her services for any period without the consent in writing of the trustees. If the master for any cause desires to be relieved from the contract, the trustees upon application may in their discretion cancel the indenture and resume the charge and management of the girl, and shall have the same power and authority relative to her as before the indenture was made.

Discharge of girl when master is guilty of cruelty, etc. 1855, 442, § 16. G. S. 75, § 17. P. S. 89, § 43.

SECTION 42. If a master is guilty of cruelty or misusage toward a girl so bound to service, or of any violation of the terms of the indenture, the girl or trustees may make complaint to a court, judge, trial justice or commissioner aforesaid, who shall summon the parties before him and examine into the complaint; and if it appears to be well founded, he shall by certificate under his hand discharge the girl from all obligations of future service, and restore her to the school to be held as before her indenture.

Assignment of indenture on death of master. 1855, 442, § 17. G. S. 75, § 18. P. S. 89, § 44.

SECTION 43. Upon the death of the master to whom a girl is so bound to service, his executor or administrator, with the consent of the girl in writing, acknowledged by her and approved by the trustees, may assign the indenture to some other person. Such assignment shall transfer to and vest in the assignee all rights and subject him to all responsibilities of the original master.

Trustees may discharge boys or girls. 1855, 442, § 12. G. S. 75, § 14. P. S. 89, § 45. 1889, 123. [1 Op. A. G. 305.]

SECTION 44. The trustees may discharge and return to his parents, guardian or protector any boy who, in their judgment, is physically or mentally unfit to remain in the school, and they shall discharge and return to her parents, guardian or protector, any girl who, in their judgment, ought for any cause to be removed from the school. In such case the trustees shall make an entry upon their records of the name of such boy or girl, the person to whom he or she was returned, the date when he or she was discharged from the custody of the school and a statement of the reasons for his or her discharge. They shall forthwith transmit a copy of such record signed by their secretary to the court, judge, trial justice or commissioner by whom the boy or girl was committed.

— to act as guardians of girls discharged or bound out. 1855, 442, § 18. G. S. 75, § 19. 1863, 184, § 2. P. S. 89, § 46.

SECTION 45. The trustees shall be the guardians of every girl so bound or held for service, and shall take care that the terms of the contract are faithfully fulfilled and that she is properly treated. They shall especially inquire into the treatment of every such girl, and cause any grievance to be redressed. If girls under twenty-one years of age who are discharged from the industrial school have no parents or guardian, the trustees shall act as guardians for them, with all the power and authority conferred by the provisions of chapter one hundred and forty-five.

SECTION 46. The state board of insanity may, upon the request of the trustees of the Lyman and industrial schools, transfer from either of said schools to the hospital cottages for children or to the Massachusetts school for the feeble-minded any inmate whose condition would be benefited by such transfer, upon a certificate of a physician that such person is a suitable subject for treatment at either of the last named institutions.

Transfers to hospital cottages, etc. 1899, 158.

SECTION 47. The trustees may expend any money which may be given for the purpose in erecting houses or other buildings on the land of the commonwealth at Lancaster, for increasing the accommodation of the industrial school, if the plans therefor are first approved by the governor and council.

Expenditure for houses, etc., for industrial school. G. S. 75, § 26. P. S. 89, § 48.

SECTION 48. A judge of probate or a commissioner before whom a child is brought under the provisions of sections seventeen and twenty-five shall make a brief record of his doings, and transmit it and all the papers in the case to the superior court in the county in which such proceedings are had; and the clerk thereof shall file and preserve the same in his office.

Records of commitments, etc., to be returned to superior court. 1863, 199. P. S. 89, § 52.

SECTION 49. The state board of charity may send to the state hospital any juvenile offender in its custody, or, upon the request of the trustees of the Lyman and industrial schools, any juvenile offender in their custody who is in need of hospital treatment. A juvenile offender so transferred shall be subject to the regulations of the state hospital and shall be in the exclusive custody of the superintendent and trustees thereof until they determine that he has sufficiently recovered to be returned to the place of his former custody. Thereupon, they shall so certify upon the warrant of commitment and give notice in writing to the state board of charity, which, upon receipt of such notice, shall cause such juvenile offender to be returned to their custody, or, if he was originally transferred from the Lyman or industrial school, to be returned to the custody of the trustees of those institutions, there to remain pursuant to the original sentence in each case.

State board to send to state hospital, when. 1899, 193.

SECTION 50. The state board of charity shall at least once a year visit all children who are maintained wholly or in part by the commonwealth, or who have been indentured or placed in charge of a person by any state institution, board or officer of the commonwealth, or under any provision hereof, and all minor children who are supported at the expense of any city or town. It shall inquire into the condition of such children, and make such other investigations relative thereto as it may think fit; and for this purpose it may have private interviews with such children at any time.

—annually to visit indentured children. 1870, 359, § 2. 1871, 370, § 2. 1879, 291, § 3. P. S. 89, § 53.

SECTION 51. If the state board of charity is of opinion that a child so indentured or placed in charge of a person cannot, with advantage to the child, be longer so held, it may cancel the indenture or contract by giving notice as provided in section thirty-nine, and return such child to the institution from which he was indentured or taken; or, on application of such institution, the state board may transfer him to any other institution maintained by the common-

—may cancel indentures, or transfer child, when. 1870, 359, § 3. 1871, 370, § 2. 1879, 291, § 3. P. S. 89, § 54.

wealth for the support or reformation of children, indenture him to some other person or otherwise provide for his maintenance during minority, or for a less time. The cancellation of the indenture or contract shall not operate as a discharge of the minor under any sentence or order of commitment.

State board to be notified before child is indentured, etc. 1870, 359, § 4. 1879, 291, § 3. P. S. 89, § 55.

SECTION 52. A child shall not be indentured, adopted or placed in charge of any person from a state institution until notice of an application therefor has been given to the state board of charity and until its report in writing, made after investigation into the propriety thereof, has been filed with such institution. All applications for the release or discharge of any children so indentured or placed in charge shall in like manner be given to the state board for its report.

— to procure adoption of children, etc. 1870, 359, § 5. 1879, 291, § 3. P. S. 89, § 56.

SECTION 53. The state board of charity shall seek out suitable persons who are willing to adopt, take charge of, educate and maintain children arrested for offences, committed to a state institution, abandoned or neglected, and give notice thereof to the institutions, boards, officers or persons having authority so to dispose of said children.

Aid for destitute girls. Res. 1863, 56. P. S. 89, § 57.

SECTION 54. The trustees may annually pay, out of the amount appropriated for the current expenses of the industrial school, not more than two hundred dollars in aiding destitute and deserving girls who have left the school and are out of employment.

CHAPTER 87.

OF THE STATE BOARD OF INSANITY AND INSTITUTIONS FOR THE INSANE.

SECTIONS 1–12. — The State Board of Insanity.
SECTIONS 13–15. — State Colony for the Insane.
SECTIONS 16–30. — State Insane Hospitals.
SECTIONS 31, 32. — Insane Hospital Districts.
SECTIONS 33–58. — Commitments to Insane Hospitals.
SECTIONS 59–65. — Commitments of Dipsomaniacs and Inebriates.
SECTIONS 66–74. — Commitments to Massachusetts Hospital for Epileptics.
SECTIONS 75–81. — Expenses for Support.
SECTIONS 82, 83. — Privileges of Patients.
SECTION 84. — Worcester Insane Asylum.
SECTIONS 85–101. — Transfers and Discharges.
SECTIONS 102–105. — Placing in Families.
SECTIONS 106–108. — County Receptacles.
SECTIONS 109, 110. — City Asylums for Chronic Insane.
SECTIONS 111, 112. — Private Insane Asylums.
SECTIONS 113–123. — Massachusetts School for the Feeble-minded.
SECTIONS 124–126. — Hospital Cottages for Children.
SECTIONS 127–129. — Appropriations.

THE STATE BOARD OF INSANITY.

State board of insanity. 1898, 433, § 1.

SECTION 1. There shall be a state board of insanity consisting of five persons, at least two of whom shall be experts in insanity. One member shall be annually appointed by the governor, with the

advice and consent of the council, for a term of five years, and any member may for cause be removed in like manner. The members of the board shall, except as hereinafter provided, receive no compensation, but they shall be paid the necessary expenses actually incurred by them in the performance of their official duties.

Executive officer. 1898, 433, § 2.

SECTION 2. The board shall appoint an executive officer, who shall be a physician and an expert in insanity, and who may be a member of the board. He shall hold the position of executive officer during the pleasure of the board and shall perform such duties as it requires. He shall receive from the commonwealth such compensation as the governor and council may determine, and the necessary expenses incurred by him in the performance of his official duties.

Agents, meetings, report. 1879, 291, §§ 3, 7. P. S. 79, §§ 2, 3. 1898, 433, § 3.

SECTION 3. The board may appoint agents and subordinate officers and fix their compensation, but the amount paid for their salaries shall not exceed the appropriation of the general court for that purpose. No civil service examination shall be required of persons so appointed who, on the first day of October in the year eighteen hundred and ninety-eight, were in the employ of the commonwealth upon similar work. The board, except as otherwise provided, may delegate any of its powers and duties to, and may execute any of its functions by, agents appointed for such purpose or by committees appointed from and by said board. The board shall hold meetings each month, and oftener if necessary. It shall make its own by-laws, and annually report its doings to the governor and council on or before the first day of December, such report being made up to the thirtieth day of September, inclusive.

Contents of report. 1879, 291, § 7. P. S. 79, § 2. 1898, 433, §§ 4, 5.

SECTION 4. The report shall contain a properly classified and tabulated statement of the receipts and expenses of the board, and of each of the several state institutions under its supervision for said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, except estimates for the ordinary expenses, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; a concise review of the work of the several institutions under the supervision of the board, for the year preceding, and such suggestions and recommendations as to said institutions and as to the general interests of all persons under its supervision as it considers expedient, and information embodying the experience of this country and other countries, relative to the best and most successful methods of caring for such persons as come under the supervision of the board.

Duties of board. 1898, 433, §§ 5,

SECTION 5. The board shall encourage scientific investigation by the medical staffs of the various institutions under its supervision, shall publish from time to time bulletins and reports of the scientific and clinical work done therein, and shall prescribe to the superintendents of the several institutions under its supervision the forms of statistical returns to be made by them in their annual reports. It shall also prescribe, and provide cities and towns with, the blank form of certificate required of mayors of cities or overseers of the poor of towns when a pauper is sent therefrom to any one of the

state institutions under its supervision, which certificate shall contain such inquiry relative to the age, parentage, birthplace and former residence of, and other facts relative to said pauper, as the board may consider necessary, to which the mayors and overseers of the poor shall render true answers, as far as they are able, before said pauper is received into said institutions.

Supervisory powers.
1898, 433, § 9.
1900, 451, §§ 1, 2, 6.

SECTION 6. The board shall have general supervision over the state colony for the insane, the state hospitals and asylums for the insane, and all other institutions and receptacles for insane or feeble-minded patients, public or private, the Massachusetts hospital for epileptics, the Massachusetts hospital for dipsomaniacs and inebriates, the Massachusetts school for the feeble-minded and the hospital cottages for children, and when directed by the governor, may assume and exercise the powers of the boards of trustees of said state institutions in any matter relative to the management thereof. On and after the first day of January in the year nineteen hundred and four, the commonwealth shall, subject to the provisions of section two of chapter four hundred and fifty-one of the acts of the year nineteen hundred, have the care, control and treatment of all insane persons, the care of whom was vested by the provisions of law in force on the eleventh day of July in the year nineteen hundred in the commonwealth, in the cities or towns or in any board of officers thereof or who may be committed to the asylums or institutions of the commonwealth for the care of the insane. No city or town, except Boston, shall establish such asylum or institution nor after said first day of January maintain the same or be liable for the board, care, treatment or act of any insane person.

Approval of plans, etc.
1898, 433, § 10.

SECTION 7. The board shall inspect and approve all plans and specifications for new buildings which are to be used by the commonwealth as institutions coming under the supervision of the board, and for the extension or alteration, involving an expenditure of more than two thousand dollars, of existing buildings which are to be or are already so used, before such new building is erected or such extension or alteration is made.

Board to be commissioners of insanity.
1879, 291, § 5.
P. S. 87, § 1.
1886, 101, § 4.
1898, 433, § 13.

SECTION 8. The board shall act as commissioners of insanity, with power to investigate the question of the insanity and condition of any person committed to any hospital or asylum for the insane, public or private, or restrained of his liberty by reason of alleged insanity at any place within the commonwealth, and shall discharge any person so committed or restrained if in its opinion such person is not insane or can be cared for after such discharge without danger to others and with benefit to himself. All questions as to the sanity of inmates of the penal, reformatory and other institutions of the commonwealth who present indications of insanity shall be referred to and determined by the board.

Visitations of board.
1879, 291, § 5.
G. S. 71, § 6.
1879, 291, § 5.
P. S. 79, §§ 5, 8.
1898, 433, § 14.

SECTION 9. The board shall visit every institution under its supervision at least twice a year. It shall ascertain by actual examination and inquiry whether the laws relative to the persons in the custody and control thereof are properly observed, shall give such directions as will insure correctness in the returns required

relative to them, and may use such means as may be necessary to collect all desired information relative to their treatment. The board shall have the same powers relative to the state poor who are inmates of the institutions under its supervision and to their property as are vested in towns and overseers of the poor relative to paupers supported and relieved by towns. The board shall carefully inspect every part of the institution visited, shall offer an opportunity to every patient for an interview with the board or with the visiting members, shall inspect every certificate of commitment entered or filed since its or their last visitation, and shall enter in a book provided for that purpose minutes of the condition of the institution at that time, of the patients therein, of the patients under restraint and their number and any criticisms or observations which the board or visiting members may have to make as to the occupation, amusement or classification of the patients, as to the cleanliness and sanitary condition of the institution, as to the diet of the patients, and as to any other matters which it or they may consider worthy of observation or criticism.

Forms of accounts. 1898, 433, § 18.

SECTION 10. The board shall prescribe a uniform system of keeping accounts in the state institutions under its supervision, which shall be adopted and used therein.

Semi-annual meetings. 1898, 433, § 20.

SECTION 11. The board and the boards of trustees of the state institutions under its supervision, or their representatives, shall meet semi-annually for consultation and harmonious action.

System for obtaining history of inebriates. 1898, 433, § 22.

SECTION 12. The board shall devise, if practicable, a system by which the board of trustees of the Massachusetts hospital for dipsomaniacs and inebriates shall be informed specifically of the history of any person whom it is proposed to commit to said hospital, and by which, if possible, an investigation of his record shall be made by a probation officer, with a view to informing the court or magistrate prior to his deciding the question of commitment.

STATE COLONY FOR THE INSANE.

Title. 1900, 451, § 5.

SECTION 13. The title of the receptacle for the insane established by chapter four hundred and fifty-one of the acts of the year nineteen hundred shall be the State Colony for the Insane.

Trustees. 1900, 451, §§ 4–6.

SECTION 14. The government of said colony shall be vested in a board of seven trustees, two of whom may be women. Vacancies in the board which occur from expiration of terms shall be filled annually, in January, by appointment of the governor, with the advice and consent of the council, for a term of five years from the first Wednesday in February following. No appointment shall be made hereunder until the state board of insanity has acquired the tract of land which it is authorized to acquire by section three of chapter four hundred and fifty-one of the acts of the year nineteen hundred, and the first board shall be appointed in conformity with the provisions of sections four and six of said act instead of as herein provided.

Trustees, powers and duties. 1900, 451, §§ 4–6.

SECTION 15. The trustees shall have the powers and duties provided in this chapter for trustees of insane hospitals, so far as applicable. They shall be a corporation for the purpose of taking and holding in trust for the commonwealth any real or personal property granted, given, devised or bequeathed for the use of said colony and of investing, expending and managing the same; but all buildings erected on the land of said colony shall be the property of the commonwealth and be managed as a part of said colony. They shall appoint a superintendent, who shall be a physician, and such other officers and assistants as may be required. The provisions of this chapter, so far as appropriate, shall apply to said colony.

STATE INSANE HOSPITALS.

Titles of hospitals. 1862, 223, § 1. 1877, 252, § 1. P. S. 87, § 2. 1884, 322, § 1. 1892, 425, § 1. 1895, 483, § 1.

SECTION 16. The titles of the following hospitals shall be, severally, the Worcester Insane Hospital, the Taunton Insane Hospital, the Northampton Insane Hospital, the Danvers Insane Hospital, the Westborough Insane Hospital, the Medfield Insane Asylum and the Massachusetts Hospital for Epileptics.

Lands of hospitals not to be taken for streets. 1862, 223, § 2. P. S. 87, § 3. 1889, 414, § 2.

SECTION 17. The land now held and which may hereafter be held by the trustees of any state insane hospital or of the Massachusetts hospital for dipsomaniacs and inebriates in trust for the commonwealth, for the use of the hospital of which they are trustees, shall not be taken for a street, highway or railroad, without leave of the general court specially obtained.

Trustees of state insane hospitals. 1832, 163, §§ 1, 8. 1834, 150, §§ 1, 4. 1835, 4. R. S. 48, §§ 1, 17. 1853, 318, § 1. 1856, 247, §§ 1, 3. 1859, 177, § 3. G. S. 73, § 1. 1877, 252, § 1. P. S. 87, § 4. 1884, 149.

SECTION 18. The government of each of the state insane hospitals at Danvers, Northampton, Taunton and Worcester shall be vested in a board of seven trustees, five of whom shall be men and two of whom shall be women. One member shall annually, in January, be appointed by the governor, with the advice and consent of the council, for a term of seven years from the first Wednesday of February following. The members of the board may be removed for cause.

— of Westborough hospital. 1884, 322, § 3.

SECTION 19. The government of the Westborough insane hospital shall be vested in a board of seven trustees, five of whom shall be men and two of whom shall be women. The members shall annually, in January, be appointed by the governor, with the advice and consent of the council, for a term of five years from the first Wednesday of February following, and may be removed for cause. One member shall be appointed in the year nineteen hundred and two and in every fifth year thereafter; two members in the year nineteen hundred and three and in every fifth year thereafter; one member in the year nineteen hundred and four and in every fifth year thereafter; one member in the year nineteen hundred and five and in every fifth year thereafter, and two members in the year nineteen hundred and six and in every fifth year thereafter.

— of Medfield asylum. 1892, 425, § 1.

SECTION 20. The board of trustees of the Medfield insane asylum shall consist of seven persons, two of whom shall be women. One member shall annually, before the first Monday in May, be appointed by the governor, with the advice and consent of the

council, for a term of seven years from the third Wednesday in June following. Any trustee may be removed by the governor, with the advice and consent of the council, for sufficient cause, which shall be stated in the order for removal.

Trustees of hospital for epileptics. 1895, 483, § 2.

SECTION 21. The government of the Massachusetts hospital for epileptics shall be vested in a board of seven trustees, five of whom shall be men and two of whom shall be women. The members shall annually, on or before the first Monday in July, be appointed by the governor with the advice and consent of the council for a term of five years from said day. Two members shall be appointed in the year nineteen hundred and two and in every fifth year thereafter; one member in the year nineteen hundred and three and in every fifth year thereafter; two members in the year nineteen hundred and four and in every fifth year thereafter; one member in the year nineteen hundred and five and in every fifth year thereafter; and one member in the year nineteen hundred and six and in every fifth year thereafter.

— of dipsomaniac hospital. 1889, 414, § 1. 136 Mass. 578.

SECTION 22. The board of trustees of the Massachusetts hospital for dipsomaniacs and inebriates shall consist of five persons, one of whom shall annually, before the first Monday in July, be appointed by the governor, with the advice and consent of the council, for a term of five years from said day. Any trustee may be removed by the governor, with the advice and consent of the council, for sufficient cause, which shall be stated in the order for removal.

Trustees a corporation. 1832, 163, § 9. 1834, 150, § 10. R. S. 48, § 4. 1842, 96. G. S. 73, § 2. P. S. 87, § 5. 1884, 322, § 4. 1889, 414, § 3. 1892, 425, § 4. 1895, 483, § 3.

SECTION 23. The trustees of each hospital shall be a corporation for the purpose of taking and holding, to them and their successors, in trust for the commonwealth, any grant or devise of land, and any gift or bequest of money or other personal property, made for the use of the hospital of which they are trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect.

Application of gifts. 1884, 322, § 4. 1895, 483, § 3.

SECTION 24. The trustees of the Westborough insane hospital and the trustees of the Massachusetts hospital for epileptics may expend any gift or bequest or part thereof in the erection of new, or in the alteration of old, buildings on land belonging to such hospitals, but all such buildings shall belong to the hospital and be managed as a part thereof.

Fire apparatus and escapes. 1890, 378, §§ 1, 2.

SECTION 25. Every state institution devoted wholly or partially to the maintenance, care and treatment of the insane shall be provided with properly constructed iron fire escapes upon the outside thereof and accessible from the interior by doors or windows, with suitable landings at every story above the first, including the attic, if they are occupied as day rooms or sleeping rooms for the insane. It shall also be provided with suitable apparatus for the extinguishment of fire, so constructed and arranged as to be effectually used from the inside or outside of the buildings or parts thereof used for the accommodation of the insane.

Trustees, powers and duties.
1832, 163, §§ 1, 8.
1834, 150, §§ 1, 4.
R. S. 48, § 2.
G. S. 73, § 3.
1879, 291, § 7.
P. S. 79, § 3; 87, § 6.
1884, 322, § 5.

SECTION 26. The trustees of each hospital shall have charge of the general interests of their respective institutions, and shall see that their affairs are conducted according to law and to the by-laws and regulations established by them. They shall receive no compensation, but they shall be reimbursed all expenses incurred in the performance of their official duties.

1889, 414, §§ 5, 15. 1892, 425, § 4. 1893, 256. 1895, 483, § 7.

Trustees to make by-laws, etc.
1832, 163, § 1.
1834, 150, § 1.
R. S. 48, § 3.
G. S. 73, § 4.
1864, 288, § 13.
P. S. 87, § 7.
1884, 116; 322, §§ 5, 6.
1889, 414, § 5.
1890, 378, § 3.
1892, 425, § 4.
1895, 483, §§ 4, 6.

SECTION 27. They shall appoint a superintendent who shall be a physician and constantly reside at the hospital, assistant physicians, one of whom in each insane hospital shall be a woman, and a treasurer who shall give bond for the faithful performance of his duties; shall appoint, or make provision in the by-laws for appointing, such officers as in their opinion may be necessary for conducting efficiently and economically the business of the institution; and shall determine, subject to the approval of the governor and council, the salaries of all the officers. All their appointments shall be made in such manner, with such restrictions and for such terms, as the by-laws may prescribe. The physician and assistant physicians at the Westborough insane hospital shall belong to the homœopathic school of medicine. The trustees shall also establish by-laws and regulations, with suitable penalties, for the government of the institutions, and shall provide for a monthly inspection and trial of the fire apparatus belonging to the institutions and for a proper organization and monthly drill of the officers and employees in its use.

Annual inventory.
1859, 177, § 2.
G. S. 5, § 11.
P. S. 79, § 7.
1898, 433, § 7.

SECTION 28. The trustees of the several state institutions under the supervision of the state board of insanity shall annually, on the thirtieth day of September, cause to be made and sent to the board an accurate inventory of the stock and supplies on hand and the amount and value thereof at said institutions, as prescribed by section seven of chapter eighty-four.

Visitation of hospitals, annual meeting, reports.
1832, 163, § 2.
1834, 150, § 2.
R. S. 48, § 5.
1852, 269, § 1.
1853, 318, § 1.
1856, 247, § 2.
1857, 40, § 1.
1858, 12.
1859, 177, § 2.
G. S. 73, § 6.
P. S. 87, § 9.
1884, 322, § 5.
1887, 170.
1889, 414, § 18.
1892, 425, § 4.
1895, 483, § 6.

SECTION 29. There shall be thorough visitations of each hospital by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, at each of which a written account of the condition of the institution shall be prepared, which shall be presented at the annual meeting to be held in October. At the annual meeting a full and detailed report shall be made of the condition of the hospital and all its affairs, with a list of the salaried officers and their salaries, and a copy of the inventory required by the preceding section, to be laid before the governor and council on or before the first day of November, for the use of the government. The treasurer shall, at the same meeting, present to the trustees his annual report. Both reports shall be made up to the thirtieth day of September, inclusive. The trustees shall audit the report of the treasurer, and transmit it with their annual report to the governor and council.

Treasurer's books.
1852, 269, § 2.

SECTION 30. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

G. S. 73, § 7. P. S. 87, § 10. 1889, 414, § 19.

INSANE HOSPITAL DISTRICTS.

Insane hospital districts. 1887, 346, § 1. 1897, 451, § 3.

SECTION 31. Insane persons shall, except as otherwise provided, be committed to the Danvers insane hospital only from a district comprising the county of Essex, the cities of Everett, Lowell, Malden, Medford, Melrose, Somerville and Woburn and the towns of Arlington, Bedford, Billerica, Burlington, Chelmsford, Dracut, North Reading, Reading, Stoneham, Tewksbury, Wakefield, Wilmington and Winchester in the county of Middlesex; to the Taunton hospital only from a district comprising the counties of Barnstable, Bristol, Dukes County, Nantucket, Plymouth and so much of Norfolk county as is not comprised in the Worcester district; to the Worcester hospital only from a district comprising all of Middlesex county not hereinbefore enumerated, the county of Worcester and the towns of Bellingham, Brookline, Dover, Franklin, Medway and Needham in the county of Norfolk; and the Northampton hospital only from a district comprising the counties of Berkshire, Franklin, Hampden and Hampshire. Insane persons from the county of Suffolk, except such as, at the request of their friends are committed to the Westborough insane hospital, the McLean asylum or any authorized private insane asylum, may be committed alternately and in equal numbers to the state insane hospitals at Danvers, Taunton, Worcester and Westborough and the Boston insane hospital at South Boston. Insane persons, the expense of whose support is paid by themselves or their friends, may at the discretion of the judge be committed to any hospital or asylum in the commonwealth.

Enforcement of preceding section. 1887, 346, § 2. 1896, 482. 1898, 433, § 28.

SECTION 32. The state board of insanity may enforce compliance with the provisions of the preceding section by notice to the committing magistrates or otherwise; may, for sufficient reasons, and to avoid hardship, exempt cities, towns or persons from its operation; and may, in its discretion, on the application of the officer or trustees in charge of any of the hospitals therein named, transfer patients therein to other hospitals or asylums or to private dwellings within the commonwealth.

COMMITMENTS TO INSANE HOSPITALS.

Commitment of insane persons to state hospitals. 1797, 62, § 3. 1833, 95. 1834, 150, § 3. R. S. 48, § 6. 1839, 149, § 3. 1852, 44.

SECTION 33. A justice of the supreme judicial court or of the superior court, in any county, and a judge of probate or a justice of a police, district or municipal court, within his county, may commit to an insane hospital, as provided in section thirty-one, an insane person then residing or being in said county who in his opinion is a proper subject for its treatment or custody.

1853, 318, §§ 1, 2. 1856, 108, § 1. G. S. 73, §§ 8, 19. 1862, 223, § 3. 1864, 288, § 6. 1867, 355, § 1. 1873, 275. 1874, 258, § 2; 293, § 16; 392, § 16. 1879, 195, § 1. P. S. 87, § 11. 1884, 322, § 9.

Order or certificate of commitment. 1834, 150, § 3. R. S. 48, §§ 6, 7. 1855, 464. G. S. 73, §§ 8, 9. 1862, 223, §§ 3, 4. 1879, 195, § 2. 1880, 250, § 6.

SECTION 34. Except as provided in section fifty-two and except as otherwise specially provided, no person shall, prior to the first day of January in the year nineteen hundred and four, be committed to a state insane hospital, asylum or other public receptacle for the insane unless the judge who hears the complaint or application for commitment finds that notice in writing of the application was, prior

P. S. 87, §§ 12, 14.
1886, 319, § 1.
1892, 53.
1894, 195.
1895, 429.
1898, 433, § 28; 438, § 2.
1900, 350.
11 Gray, 107.
111 Mass. 308.
169 Mass. 387.

to the hearing thereon, given to the overseers of the poor of the city or town in which the alleged insane person resides, or, if such person resides in the city of Boston, to the institutions registrar and the chairman of the insane hospital trustees, nor shall he be committed to any insane hospital, asylum or other receptacle, public or private, unless there has been filed with such judge a certificate of the insanity of such person by two physicians as provided in the following section, nor without an order or certificate therefor, signed by one of the judges named in the preceding section, stating that the judge finds that the person committed is insane and is a proper subject for treatment in an insane asylum, and either that he has a legal settlement in the commonwealth, or that he has been an inhabitant thereof for the six months immediately preceding such finding or that provision, satisfactory to the state board of insanity, has been made for his maintenance or that by reason of insanity he would be dangerous if at large. The order or certificate shall also authorize the custody of the insane person either at the hospital or asylum to which he shall first be committed, or at some other hospital, asylum, private dwelling or other place to which he may be transferred if discharged without recovery from the hospital or asylum named in such order or certificate. Said judge shall see and examine the alleged insane person, or state in his final order the reason why it was not considered necessary or advisable so to do. The hearing, unless a jury is summoned, shall be at such place as the judge shall appoint. In all cases, the judge shall certify in what place the insane person resided at the time of his commitment; or if the confinement is ordered by a court, the judge shall certify in what place the insane person resided at the time of the arrest upon the charge for which he was held to answer before such court; and such certificate shall, for the purposes of the preceding section, be conclusive evidence of his residence.

Qualifications of physician certifying to insanity.
1862, 225, § 8.
1865, 268, § 1.
1879, 195, § 3.
P. S. 87, § 13.
1892, 229.
1895, 286, §§ 1, 2.
177 Mass. 11.
[10 Op. A. G. 322, 490.]

SECTION 35. A physician shall not make a certificate of insanity unless he makes oath to the judge at the hearing that he is a graduate of a legally chartered medical school or college, that he has been in the actual practice of medicine for three years since his graduation and for three years last preceding the making of said oath, and that he is registered in accordance with the provisions of chapter seventy-six, nor unless his standing, character and professional knowledge of insanity is satisfactory to the judge. A physician who makes such certificate shall have examined the alleged insane person within five days of his signing said certificate, and shall state therein that in his opinion such person is insane and a proper subject for treatment in an insane hospital or asylum, and the facts on which his opinion is based. A copy of the certificate, attested by the judge, shall be delivered by the person making the commitment to the superintendent of the hospital or other place to which the person shall be committed, and shall be filed and kept with the order of commitment, and within forty-eight hours after the commitment of an insane person to an insane hospital or asylum, the superintendent thereof shall transmit to the state board of insanity a copy of such certificate. A certificate bearing date more than ten days prior to the commitment of any person alleged to be insane shall be void, and no certificate shall be valid or be received

in evidence if signed by a physician holding any office or appointment in or connected with a hospital, asylum or other place for the insane to which the alleged insane person may be committed.

Records of commitments. 1898, 433, § 8.

SECTION 36. The state board of insanity shall keep records of commitments of all patients and attend to the enforcement of the laws relative thereto. All institutions under its supervision shall furnish all the information required by the board relative to commitments.

Forms of commitments. 1895, 286, § 2. 1898, 433, § 19.

SECTION 37. The board shall prescribe the forms of certificates required by law in the commitments of all persons to the institutions under its supervision, which shall be the sole forms used in such commitments.

Propriety of commitments, as to. 1898, 433, § 17.

SECTION 38. The superintendent or physician in charge of any institution under the supervision of the board of insanity shall immediately notify said board if there is any question as to the propriety of the commitment of any person received therein, and said board shall thereupon inquire into the condition of such patient and into the propriety of the commitment.

Statement to be filed with judge. 1858, 64. G. S. 73, §§ 10, 21. 1862, 223, § 5. 1865, 268, § 2. P. S. 87, § 15.

SECTION 39. Upon every application for the commitment or admission of an insane person to a hospital or asylum for the insane, a statement shall be filed with the application, or within ten days after the commitment or admission, showing as nearly as can be ascertained the age of such insane person, his birthplace, civil condition and occupation; the supposed cause and the duration and character of his disease, whether mild, violent, dangerous, homicidal, suicidal, paralytic or epileptic; the previous or present existence of insanity in the person or his family; his habits in regard to temperance; whether he has been in any insane hospital, and, if so, what one, when, and how long; and, if the patient is a woman, whether she has borne children, and, if so, what time has elapsed since the birth of the youngest; the names of his father, mother, children, brothers, sisters or other next of kin, not exceeding ten in number and over eighteen years of age, and their address, if known by the applicant, and any facts showing whether he has or has not a settlement, and, if he has a settlement, in what place. If the applicant is unable to state any of the above particulars, he shall so state. A copy of the statement shall be transmitted to the superintendent of the hospital or asylum and filed with the order of commitment or with the copy of the application for admission. The superintendent shall, within two days after the admission or commitment of an insane person, send notice of said commitment by mail, postage prepaid, to each of said relatives, and to any other two persons whom the person committed shall designate.

Homœopathic treatment secured. 1884, 322, § 7.

SECTION 40. In making a commitment of an insane person, the judge shall inquire of the applicant for his commitment whether he desires the insane person to be treated according to homœopathic principles of medicine, and if he does, such insane person shall be committed to the Westborough insane hospital in preference to any other place, if such hospital is capable of receiving him; and inmates

of other state insane hospitals desiring homœopathic treatment or for whom such treatment is desired by their families or by the applicant for their commitment may be transferred by the state board of insanity to the Westborough insane hospital.

Judge may cause alleged insane person to be brought before him. 1880, 250, § 1. P. S. 87, § 16.

SECTION 41. After hearing such evidence as he may consider proper, the judge may issue a warrant for the apprehension and bringing before him of the alleged insane person, if in his judgment the condition or conduct of such person renders it necessary or proper so to do. Such warrant may be directed to and served by a qualified officer or by a private person named in said warrant; and pending examination and hearing, such order may be made relative to the care, custody or confinement of such alleged insane person as the judge shall see fit.

Jury may be summoned. 1857, 228, § 1. G. S. 73, § 11. 1862, 223, § 6. P. S. 87, § 17.

SECTION 42. The judge may, in his discretion, issue a warrant to the sheriff or his deputy, directing him to summon a jury of six men to hear and determine whether the alleged insane person is insane.

How jury to be selected and impanelled. 1837, 228, § 2. G. S. 73, § 12. 1862, 223, § 6. P. S. 87, § 18.

SECTION 43. The jurors shall be selected in equal numbers from the place in which the trial is had and one or two adjoining places, as the judge shall order. The jurors shall be selected and impanelled as provided in chapter forty-eight, and in the counties of Suffolk and Nantucket they may all be taken from one place.

Judge to preside; verdict. 1837, 228, § 3. G. S. 73, § 13. P. S. 87, § 19.

SECTION 44. The judge shall preside at such trial, and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final.

How deficiency in jury supplied. 1837, 228, § 4. G. S. 73, § 14. P. S. 87, § 20.

SECTION 45. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return persons to supply the deficiency; and shall have the same authority as the supreme judicial court to enforce the attendance of jurors and witnesses and to impose fines for non-attendance.

Fees of officers, jurors and witnesses. 1837, 228, § 2. 1848, 271. 1855, 120. G. S. 73, § 15. 1862, 223, § 6. P. S. 87, § 21.

SECTION 46. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses shall be entitled to such compensation as is prescribed for jurors and witnesses in the supreme judicial court.

Judge to keep docket, original application, etc. 1880, 250, § 2. P. S. 87, § 22.

SECTION 47. Each judge shall keep a docket or record of the causes relative to insane persons coming before him, numbered or otherwise properly designated, and the disposition thereof. He shall also receive and keep on file the original application, statement of applicant and certificate of physicians, and the copy of the order of commitment, attested by, and with the return thereon of, the officer or other person serving the same.

Fees of judges, physicians and others. 1856, 225, § 4. 1858, 31.

SECTION 48. The fees of the judge shall be as follows: for hearing and determining the application and filing papers, if the alleged insane person is brought before him, three dollars; and

if he is required to go from his office or place of business to see and examine the alleged insane person, an additional fee of one dollar and all necessary expenses of travel. If more than one day is actually and necessarily occupied in a hearing, two dollars for each additional day shall be allowed. The fee for each physician making a certificate shall be four dollars, and twenty cents for each mile travelled one way. The fees for officers serving process under this chapter shall be the same as are allowed by law in like cases.

1850, 235. 1856, 108, § 6. G. S. 73, §§ 17, 20; 74, § 11. 1862, 223, § 7. 1873, 275. 1879, 222. 1880, 250, § 3. P. S. 87, § 23. 1894, 493.

SECTION 49. All necessary expenses attending the apprehension, examination, trial or commitment of an alleged insane person shall, if the commitment is to a state insane hospital, county receptacle or the Boston insane hospital, be allowed and certified by the judge, and presented as often as once a year to the county commissioners, who shall examine and audit the same; and they shall then be paid by the county of which the alleged insane person is an inhabitant. If application is made for commitment to any other asylum, hospital or receptacle, the expenses shall be paid by the applicant or by a person in his behalf.

Expenses, how paid. 1837, 228, § 5. 1838, 31. 1850, 235. G. S. 73, §§ 16, 18. 1880, 250, § 3. 1881, 186, § 1. P. S. 87, § 24.

SECTION 50. Neither the overseers of the poor nor, in Boston, the insane hospital trustees shall commit to or detain in any almshouse, private dwelling or other place, without remedial treatment, an insane person whose insanity has continued for less than twelve months; and within seven days after the admission or discharge of an insane person in their care, to or from any almshouse, private dwelling or other place, said overseers or institutions registrar shall report in writing such admission or discharge to the state board of insanity. All persons suffering from recent insanity shall have the opportunity of medical treatment in a hospital or asylum, under the direction of a physician qualified according to the provisions of section thirty-five, if they or their friends so desire.

Treatment of recent insane. 1886, 319, §§ 3, 4. 1890, 414, § 2. 1897, 451. 1898, 433, § 28.

SECTION 51. If the state board of insanity has reason to believe that an insane or other person who is a proper subject for its care, confined in an almshouse or other place at the public charge or otherwise, is deprived of suitable treatment, it shall cause application to be made to a judge for the commitment of such person to an institution under its supervision.

State board to apply for commitment, when. 1864, 288, § 7. P. S. 87, § 25. 1890, 414, § 1. 1898, 433, § 14.

SECTION 52. The superintendent or keeper of any insane hospital or the McLean asylum may, without an order of a judge as provided in sections thirty-three and thirty-four, receive into his custody and detain in such hospital or asylum for not more than five days any person whose case is certified to be one of violent and dangerous insanity and emergency by two physicians qualified as provided in section thirty-five by certificates separately made and signed, and conforming in all other respects to the provisions of said section. The person so committing such insane person shall give a bond in the sum of one hundred dollars to the treasurer of such hospital or asylum, with condition that he will within five days procure an order for the commitment of said patient or failing thereof will remove him.

Commitment of persons violently insane without warrant. 1881, 272, §§ 1, 2. P. S. 87, §§ 26, 27. 1898, 438, § 1.

Voluntary applicants.
1881, 272, § 3.
P. S. 87, § 28.
[1 Op. A. G. 283.]

SECTION 53. The superintendent or keeper of any hospital as aforesaid may receive and detain therein, as a boarder and patient, any person who is desirous of submitting himself to treatment and who makes written application therefor, but whose mental condition is not such as to render it legal to grant a certificate of insanity in his case. Such boarder shall not be detained for more than three days after having given notice in writing of his intention or desire to leave such hospital.

Notice to board of insanity.
1881, 272, § 4.
P. S. 87, § 29.
1886, 101, § 4.
1898, 433.

SECTION 54. If a patient is received into any such hospital upon his own application or under the provisions of section fifty-two, the superintendent thereof shall give immediate notice of such reception to the state board of insanity, stating all the particulars of the case, including the legal settlement of the person so received, if known; and said board shall immediately cause such case to be investigated and a record to be made of all the facts relative thereto.

Commitments to Medfield asylum.
1892, 425, § 4.
1898, 433, § 28.

SECTION 55. A patient shall not be admitted to the Medfield insane asylum unless transferred thereto by the state board of insanity.

Penalty upon physician conspiring to commit sane person.
1881, 272, § 5.
P. S. 87, § 30.

SECTION 56. A physician who wilfully conspires with a person unlawfully or improperly to commit to an insane hospital or asylum in this commonwealth a person who is not insane shall be punished by fine or imprisonment, at the discretion of the court.

Commitment of women.
1899, 198.

SECTION 57. If a woman is committed to an insane hospital or asylum, the committing magistrate shall, unless she is accompanied by her father, husband, brother or son, designate a woman to be an attendant or one of the attendants to accompany her thereto.

Nurses to be employed in transferring patients.
1897, 418.
1898, 433, § 16.

SECTION 58. In committing patients to, and transferring them between, institutions for the insane under the supervision of the board, nurses or attendants from such institutions shall, as far as practicable, be employed instead of officers of the law, and female nurses or attendants shall be employed to accompany female patients.

COMMITMENTS OF DIPSOMANIACS AND INEBRIATES.

Commitments of dipsomaniacs.
1885, 339, § 1.
1889, 414, §§ 6, 7.
1891, 158, § 1.
1899, 266, § 1.
1900, 350.
1901, 282.

SECTION 59. Any of the judges named in section thirty-three may commit to the Massachusetts hospital for dipsomaniacs and inebriates any male, or to a state insane hospital any male or female, who is addicted or subject to dipsomania or inebriety either in public or private; but no such commitment shall be made until satisfactory evidence is presented to the judge by whom the proceedings for commitment are heard that like notice to that required by section thirty-four has been given and that such person is not of bad repute or of bad character apart from his habits of inebriety. The magistrate who receives the application for such commitment shall examine on oath the applicant and all other witnesses, shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and a copy of said application to be served upon the person to be committed in the

manner provided by section twenty-five of chapter two hundred and seventeen. Said person shall be entitled to a hearing, unless after receiving said summons, he shall in writing waive such hearing; and in such case, said magistrate may issue an order for his commitment to said hospital without such hearing if he is of opinion that such person is a proper subject for its treatment or custody.

Release on probation. 1889, 414, §§ 8, 9. 1899, 325, § 1. 165 Mass. 559.

SECTION 60. A person so committed to said hospital for dipsomaniacs and inebriates may be detained therein two years from the date of his commitment and no longer; but if it appears to the trustees that he will not continue to be subject to dipsomania or inebriety, or will be sufficiently provided for by himself or his guardian, relatives or friends, they may, upon such conditions as they may impose, issue to him a permit to be at liberty, revocable by them at any time previous to its expiration. The violation of any of the terms or conditions of such permit by the holder thereof shall render it void, and the trustees may thereupon issue an order authorizing the arrest and return to the hospital of the holder thereof, which may be served by any officer qualified to serve criminal process in any county. The holder of such permit may voluntarily return to the hospital and place himself in the custody of its superintendent. Upon the return of a holder of such permit, voluntarily or involuntarily, he shall be detained therein according to the term of his original commitment.

Escapes. 1897, 474, § 1.

SECTION 61. An inmate of said hospital who escapes therefrom may be arrested and returned thereto by any officers qualified to serve criminal process in any county, or by any officer or employee of said hospital. The superintendent of police of Boston, city marshals and chiefs of police of cities and towns, upon written information from the superintendent of said hospital of such an escape, shall cause the person so escaping to be arrested and returned to said hospital if he is within such city or town.

Appeal from order of commitment. 1889, 414, §§ 10–12. 1899, 266, § 2. 1901, 282.

SECTION 62. A person may appeal from the order of the judge who commits him to any such hospital as a dipsomaniac or inebriate to the superior court sitting for criminal business in the county from which he is committed, in the manner provided by section twenty-eight of chapter one hundred and fifty-seven, but he shall be held in such hospital to abide the final order of said court until he recognizes in the manner provided in section twenty-two of chapter two hundred and nineteen. Upon such appeal the judge who ordered the commitment may bind the witnesses by recognizance as provided in chapter two hundred and seventeen, and shall make a copy of the order of commitment and other proceedings in the case and transmit the same with the recognizance, if any, to the clerk of the superior court. If the appellant so requests, an issue or issues shall be framed and submitted to a jury in the superior court.

Default for non-prosecution of appeal. 1889, 414, § 13.

SECTION 63. If the appellant fails to enter and prosecute his appeal he shall be defaulted on his recognizance, and the superior court may enter an order in like manner as if he had been ordered to be committed by that court; and process may issue, if necessary, to bring him into court to be recommitted.

Withdrawal of appeal.
1889, 414, § 14.

SECTION 64. The appellant may at any time before the copy of the proceedings has been transmitted to the superior court be brought personally before the judge from whose order the appeal was taken, and, at his request, may be permitted by the judge in his discretion to withdraw his appeal and abide by the order of said judge, who shall order that the appellant comply with the order appealed from in the same manner as if it were then imposed.

General laws applicable.
1885, 339, § 2.
1889, 414, § 7.
1899, 266, § 1.
177 Mass. 11.

SECTION 65. The provisions of this chapter relative to the commitment of insane persons to an insane hospital shall, unless otherwise expressly provided, apply to and govern commitments under the provisions of the six preceding sections, except that it shall be specifically alleged that a person who is committed thereunder is a dipsomaniac or inebriate instead of alleging that he is insane.

COMMITMENTS TO MASSACHUSETTS HOSPITAL FOR EPILEPTICS.

Commitment of epileptics.
1895, 483, §§ 8, 9, 11.
1899, 211, § 1.

SECTION 66. A person of the age of fourteen years or over who is subject to epilepsy, if he is not a criminal, an idiot, inebriate or violently insane, may be received for care and treatment in the Massachusetts hospital for epileptics by the trustees thereof or may, if insane, be committed thereto. The state board of insanity may also transfer to said hospital any such epileptic who has been committed to an insane hospital, or if it has reason to believe that he is deprived of proper care and treatment, may cause any such epileptic confined in an almshouse or other place at the public charge or otherwise to be transferred or committed thereto.

Reception of patients.
1895, 483, § 10.
1899, 211, § 2.
[1 Op. A. G. 515.]

SECTION 67. The trustees of said hospital may receive and detain therein, as a boarder and patient, any person of the age of fourteen years or over, subject to epilepsy, who desires to submit himself to treatment and makes written application therefor, but whose mental condition is not such as to render it legal to grant a certificate of insanity; and upon his reception at said hospital, the superintendent shall report the particulars of the case to the state board of insanity, which may investigate the same. No such patient shall be detained more than three months after having given written notice of his intention or desire to leave said hospital.

Admission of sane epileptics.
1898, 213, § 1.
1899, 211, § 3.

SECTION 68. A person of the age of fourteen years or over who desires to be admitted to said hospital under the provisions of the preceding section and is not of sufficient ability to pay the charges for his support therein, and who has no person or kindred bound by law to maintain him of sufficient ability to pay such charges, may apply to any judge authorized to commit insane persons for approval of his application for admission. No such person shall be admitted to said hospital except in accordance with the provisions of this and the four following sections.

Form of application.
1898, 213, § 2.

SECTION 69. Such petition shall be accompanied by a written application to the trustees of said hospital for admission thereto, signed and sworn to by the petitioner, stating his residence, and to the best of his knowledge, his place of settlement, that he is an epileptic and that neither he nor any person bound by law to maintain him is of sufficient ability to pay the charges for his support.

SECTION 70. The petitioner shall give notice in writing to the overseers of the poor of the city or town in which he resides of his intention to make such application, but in Boston such notice shall be given to the pauper institutions trustees. Petitioner to notify overseers of the poor. 1897, 395, § 4. 1898, 213, § 3.

SECTION 71. The hearing of such petition shall be at such time and place as the judge shall appoint. If upon such hearing the judge finds that the petitioner is subject to epilepsy and is eligible for admission to said hospital, that his mental condition is not such as to render it legal to grant a certificate of insanity, that neither he nor any person bound by law to maintain him is of sufficient ability to pay the charges for his support in such hospital and that notice has been given as provided in the preceding section, he may approve said application for admission. A certificate reciting said findings and approval, signed by the judge, with certified copies of the application for admission, the notice mentioned in the preceding section, and the certificates hereinafter required, shall be transmitted to the trustees of said hospital. Hearing on application. 1898, 213, § 4. 1899, 211, § 4.

SECTION 72. The judge shall not approve the application for admission unless the certificate of two physicians has been filed with him. A physician shall not be qualified to make such certificate unless he makes oath that he is a graduate of a legally chartered medical school or college, that he has been in the actual practice of his profession in this commonwealth as a physician for at least three years since such graduation and for the three years last preceding the making of said oath and that he is registered in accordance with the provisions of chapter seventy-six, nor unless his standing, character and professional knowledge of epilepsy are satisfactory to the judge. Such physician shall state in said certificate that in his opinion the petitioner is an epileptic and a suitable person to be received in said hospital and shall state the facts on which his opinion is founded substantially in accordance with the practice relating to certificates of insanity. Approval of application. 1898, 213, § 5.

SECTION 73. In all cases arising under the provisions of the five preceding sections the judge, the physicians and officers shall be entitled to the fees provided by section forty-eight, and such fees and the expense of transportation to said hospital shall be certified, allowed and paid as provided in section forty-nine. Fees and expenses. 1899, 211, § 5.

SECTION 74. The provisions of this chapter which are applicable to state insane hospitals relative to the commitment, detention, transfer and discharge of insane patients shall, so far as consistent, apply to the Massachusetts hospital for epileptics. General laws applicable. 1895, 483, § 9.

EXPENSES FOR SUPPORT.

SECTION 75. The price for the support in state insane hospitals of state, city and town paupers shall be three dollars and twenty-five cents a week for each person, and in the Medfield insane asylum it shall not exceed two dollars and eighty cents a week for each person. Price of board for insane paupers in state hospitals. 1832, 163, § 5. 1834, 150, § 5. R. S. 48, § 8.

1859, 107, § 2. G. S. 73, §§ 22, 24. 1862, 223, §§ 9, 11. 1863, 240, § 9. 1864, 138, § 1. 1880, 149. P. S. 87, § 31. 1884, 322, § 9. 1892, 425, § 4. 160 Mass. 232.

Price of board for dipsomaniacs. 1889, 414, § 17.

SECTION 76. Inmates of the Massachusetts hospital for dipsomaniacs and inebriates who are of sufficient ability shall pay their board. The board of such inmates as are unable to pay for themselves and who have a settlement in this commonwealth shall be paid by their place of settlement. The board of such persons having no settlement in the commonwealth shall be paid by the commonwealth at a rate to be determined by the board of trustees of said hospital.

— for epileptics. 1895, 483, § 12. [1 Op. A. G. 515.]

SECTION 77. The charges for the support of inmates of the Massachusetts hospital for epileptics who are of sufficient ability, or have persons or kindred bound by law to maintain them, shall be paid by such inmates, persons or kindred at a rate to be determined by the trustees. Such charges for other inmates having legal settlements in this commonwealth shall be paid by their place of settlement, and of those having no such settlement shall be paid by the commonwealth at a rate not exceeding three dollars and twenty-five cents a week for each person.

Charges for state paupers, how payable. 1835, 129, §§ 1, 2, 4. R. S. 48, §§ 9-11, 16. 1837, 228, § 7. 1856, 108, § 4. 1857, 209. 1858, 161. G. S. 73, § 24. 1862, 223, § 11. 1870, 105, § 1. 1879, 88. P. S. 87, § 32. 1884, 322, § 9. 1900, 451, § 1.

SECTION 78. The charges for the support of insane persons not having known settlements in this commonwealth shall be paid quarterly by the commonwealth, and may afterward be recovered by the treasurer and receiver general from such insane persons, if of sufficient ability, or of any person or kindred bound by law to maintain them, or, until the first day of January in the year nineteen hundred and four, of the place of their settlement, if ascertained. The attorney general and district attorneys shall upon request bring actions therefor in the name of the treasurer and receiver general. 116 Mass. 570. 160 Mass. 232.

— for town and city paupers, etc. 1832, 163, § 4. 1834, 150, § 7. 1835, 129, § 2. R. S. 48, § 9. 1837, 228, § 7. G. S. 73, § 23. 1862, 223, § 10. P. S. 87, § 33. 1884, 322, § 9. 1900, 451, § 1. 3 Met. 1. 9 Gray, 32. 12 Allen, 510. 151 Mass. 96. 160 Mass. 232. 165 Mass. 559.

SECTION 79. The charges for the support of insane persons having known settlements in this commonwealth shall be paid quarterly, either by the persons bound to pay, or, until the first day of January in the year nineteen hundred and four, by the place in which such insane persons had their residence at the time of their commitment, unless other sufficient security is taken, to the satisfaction of the trustees, for such support, and after said date by the commonwealth. If any city, town or person refuses to pay such charges, or any amount charged and due according to the by-laws of the hospital for the removal of a patient whom the trustees are authorized by law to remove, for thirty days after demand in writing by the treasurer and receiver general upon the mayor and aldermen of the city, or upon the selectmen of the town, or upon the person liable therefor, the same may be recovered in an action by the attorney general or district attorney in the name of the treasurer and receiver general, with interest from the time of such demand, to the use of the hospital.

Remedy of cities or towns paying for support, etc. 1834, 150, § 7. 1835, 129, § 4. R. S. 48, § 10. 1841, 77. G. S. 73, § 25. P. S. 87, § 34. 1884, 322, § 9. 18 Pick. 479. 9 Cush. 585.

SECTION 80. A city or town which pays for the support or removal of an insane person committed to a state hospital may recover the expense thereof, with interest and costs, from the place of his settlement, as if such expense had been incurred in the ordinary support of the insane person, who, if of sufficient ability, and any kindred bound by law to maintain him, shall be liable for all such expenses paid by a city or town in either case. 1 Gray, 514. 5 Gray, 390. 6 Allen, 585. 130 Mass. 12. 160 Mass. 232. 11 Gray, 107. 119 Mass. 479. 131 Mass. 328. 164 Mass. 507.

SECTION 81. If it appears to the governor and council that a town having a taxable valuation of less than five hundred thousand dollars in the valuation of polls and estates established by the general court is lawfully charged with the maintenance of an insane person at a state insane hospital or asylum or at the state hospital or state farm, or of an inmate of the Massachusetts school for the feeble-minded or of the hospital cottages for children, or in any other place under the charge of the state board of insanity, by reason of such insane person having a legal settlement in such town, the expense thereof may be wholly or partly reimbursed to such town by the commonwealth.

Reimbursement of small towns.
1892, 243.
1895, 375.
1898, 196.
1899, 156.
[1 Op. A. G. 50.]

PRIVILEGES OF PATIENTS.

SECTION 82. An attorney at law, regularly retained by or on behalf of any person committed to an insane hospital, asylum, or receptacle for the insane, shall be admitted to visit his client at all reasonable times if, in the opinion of the superintending officer of such hospital, asylum or receptacle, such visit would not be injurious to such person, or if a justice of the supreme judicial court, or of the superior court, or a judge of probate in any county first orders in writing that such visits be allowed.

Attorney may visit patients, when.
1879, 195, § 4.
P. S. 87, § 35.

SECTION 83. All patients in any institution under the supervision of the state board of insanity shall be allowed, subject to the regulations of the board, to write freely to the board, and letters so written shall be forwarded, unopened, by the superintendent or person in charge of said institution to said board for such disposition as it shall consider right, and said board may send any letters or other communications to any patients in any of said institutions whenever it may consider proper so to do.

Patients may write letters to board.
1874, 363, §§ 1, 2.
P. S. 87, § 36.
1898, 433, § 15.

WORCESTER INSANE ASYLUM.

SECTION 84. The trustees of the Worcester insane hospital shall have the same authority relative to the management and government of the Worcester insane asylum, the care of the inmates, and the collection and disbursement of money for and on account of it, and to the same extent, as if said asylum were a part of said hospital; except that the inmates thereof shall be only such as may be transferred thereto by the state board of insanity, according to law.

Worcester insane asylum.
1863, 240, § 4.
1877, 227.
1879, 291, § 3.
P. S. 87, § 37.
1887, 239.

TRANSFERS AND DISCHARGES.

SECTION 85. The governor may at any time cause an inmate of a state insane hospital to be removed to another such hospital as the circumstances or the necessities of the case may in his judgment require.

Transfer of inmates by governor.
1853, 318, § 3.
1856, 247, § 5.
G. S. 73, § 26.
P. S. 87, § 38.

SECTION 86. If at any time all the state insane hospitals are so full that all the inmates cannot be suitably accommodated therein, and in the opinion of the trustees of any hospital it is proper that some should be removed, the trustees may remove to their respective homes, or to the places of their legal settlement, or of their residence, so many as may be necessary to afford suitable accommoda-

— by trustees when hospitals are crowded.
1835, 129, § 3.
R. S. 48, § 15.
G. S. 73, § 27.
1862, 223, § 13.
P. S. 87, § 39.

tion for the remainder; but only such patients shall be selected for removal as, in the opinion of the trustees and superintendent, are not susceptible of improvement, and can be suitably managed at their homes or in the places to which they may be sent.

General power of transfer.
1859, 255.
G. S. 71, § 7.
1863, 240, § 4.
1879, 291, § 3.
1880, 250, § 4.
P. S. 79, §§ 9, 13.
1887, 367.
1894, 196.
1898, 433, § 11.
1900, 451, § 8.
[1 Op. A. G. 490.]

SECTION 87. The state board of insanity may, subject to the provisions of section ninety, transfer an inmate of any institution under its supervision who has been committed hereto as insane to any other such institution to which he might have been committed or transferred, and may, subject to said provisions, transfer a person who has been adjudged to be insane under the provisions of law from any public or private receptacle for the insane to any of such institutions to which he might have been committed or transferred; but no such transfer, except as provided in section thirty-two, shall be made prior to the first day of January in the year nineteen hundred and four, from any such receptacle not maintained or controlled by the commonwealth. It may also remove any such insane pauper inmates who are not subject to the orders of a court to any state or place where they belong. It may transfer inmates of any state institution, including those committed thereto under the orders of a court, and, after the first day of January in the year nineteen hundred and four, of any public or private institution, who have been adjudged insane under the provisions of law, to any institution under their supervision. The names and usual details of the history of the inmates so transferred shall be entered upon the register of the institution to which he is transferred and he shall be recorded upon the register of the institution from which he is transferred as discharged for the purpose of transfer.

Transfer of dipsomaniacs.
1889, 414, § 16.
1891, 158, § 2.
1898, 433, § 28.

SECTION 88. Male inmates of a state insane hospital committed thereto under the provisions of section fifty-nine who are not insane may be transferred by the state board of insanity to the Massachusetts hospital for dipsomaniacs and inebriates; and inmates of said hospital found, under an order of commitment in due form, to be insane and requiring treatment in a state insane hospital or asylum shall be transferred thereto by said board.

— of epileptics.
1895, 483, § 11.

SECTION 89. The state board of insanity shall, under an order of commitment in due form, transfer from the Massachusetts hospital for epileptics to a state insane hospital or asylum inmates who are violently insane and require treatment therein.

Transfers from private hospitals.
1881, 183.
P. S. 79, § 13.
1894, 196.
1898, 433, § 12.
[1 Op. A. G. 67.]

SECTION 90. The state board of insanity, upon the application of the director, manager or trustee of a private hospital or asylum, may transfer any inmate of such institution to another private institution, or to a state hospital or asylum for the insane, or any inmate of a state hospital or asylum for the insane to any private institution under its supervision, but no such transfer shall be made without the consent of the legal or natural guardian of such inmate.

Discharge of inmates by trustees or court.
1832, 163, § 6.
1834, 150, § 6.
1839, 149, § 1.
R. S. 48, § 14.
G. S. 73, §§ 29, 30.

SECTION 91. Two of the trustees of a state insane hospital, on application in writing or of their own motion, or a justice of the supreme judicial court in any county, or the judge of probate for the county in which the hospital is situated or in which the patient had his residence at the time of his commitment or admission, on

such application, and after such notice as the said trustees or judge may consider reasonable and proper, may discharge any person confined therein, if it appears that he is not insane, or, if insane, will be sufficiently provided for by himself, his guardian, relatives or friends, or by the city or town liable for his support, or that his confinement therein is not longer necessary for the safety of the public or his own welfare.

1862, 223, §§ 14, 15. 1871, 321, § 1. P. S. 87, § 40. 136 Mass. 490. 165 Mass. 559.

SECTION 92. The state board of insanity may discharge patients from the Massachusetts hospital for dipsomaniacs and inebriates, the Massachusetts hospital for epileptics, the Massachusetts school for the feeble-minded and the hospital cottages for children, and may transfer inmates of said institutions to other state institutions, and the inmates of other state institutions under its supervision to the said hospitals and school; but no inmate of said other state institutions under its supervision shall be transferred to said hospitals or school unless such inmate has been duly committed thereto, in conformity with the provisions governing the commitment of patients to said hospitals and school.

Discharge of inmates by state board of insanity. 1898, 433, § 21.

SECTION 93. Two of the trustees of a state insane hospital or asylum may also remove any person confined therein to the city or town in which the judge committing him certified that he resided at the time of the order for commitment, or to the place of his settlement, if in their opinion he ceases to be dangerous and is not susceptible of mental improvement at the hospital or asylum, and if such city or town does not remove him after reasonable notice in writing.

Removal to residence, etc., when. 1834, 150, § 6. R. S. 48, § 14. G. S. 73, § 29. 1871, 321, § 2. P. S. 87, § 41.

SECTION 94. The board of trustees of a state insane hospital or of the Massachusetts general hospital may, by vote, confer on the superintendent of the hospital or asylum under their control authority to discharge any inmate committed thereto as insane, first giving written notice of his intention so to discharge to the person who signed the application for the commitment of such inmate.

Discharge by superintendent. 1883, 78, § 1.

SECTION 95. Such superintendent may permit any such inmate temporarily to leave the hospital or asylum in charge of his guardian, relatives or friends for a period not exceeding sixty days, and may receive him when returned by any such guardian, relatives or friends, within such period, without any further order of commitment.

Temporary absence by permission. 1883, 78, § 2.

SECTION 96. The provisions of section ninety-one and of the three following sections shall, so far as appropriate, apply to the discharge of persons confined in the Massachusetts hospital for dipsomaniacs and inebriates; but all applications made thereunder shall be made to, and the proceedings thereon shall be had in, the superior court in the county of Suffolk, instead of the courts therein named. The trustees may discharge finally any patient when in their opinion he will not continue to be subject to dipsomania or inebriety or will not be benefited by further treatment in said hospital.

Discharge of dipsomaniacs. 1885, 339, § 3. 1897, 474, § 2. 1899, 266, § 3; 325, § 2. [1 Op. A. G. 487.]

SECTION 97. Any person may make written application to a justice of the supreme judicial court at any time and in any county,

Application for discharge. 1864, 288, § 1.

1871, 321, § 3. P. S. 87, § 42.

stating that he believes or has reason to believe that a person named in such application is confined as an insane person in an insane hospital or other place, public or private, and ought not longer to be so confined, and giving the names of all persons supposed to be interested in keeping him in confinement, and requesting his discharge.

Notice to superintendent. Further proceedings. 1839, 149, § 1. G. S. 73, § 30. 1864, 288, §§ 3, 5. 1871, 321, § 4. P. S. 87, § 43.

SECTION 98. The justice, upon reasonable cause shown for a hearing, shall order notice of the time and place thereof to be given to the superintendent of the hospital or place of confinement, and to such other persons as he considers proper; and such hearing shall be given as soon as conveniently may be before any justice of said court in any county. The alleged insane person may be brought before the justice at the hearing upon a writ of habeas corpus, if any person so requests and the justice considers it proper, and an issue or issues may be framed and submitted to a jury by direction of the justice or on the request of any person who appears in the case. The jurors may be those in attendance on said court, if in session at the time of the hearing, or may be summoned for the purpose upon the order of the justice substantially in accordance with the provisions of chapter one hundred and seventy-six.

If not insane or dangerous, to be discharged. 1871, 321, § 5. 1879, 132. P. S. 87, § 44. 3 Allen, 225.

SECTION 99. If it appears upon the verdict of the jury, or in the opinion of the justice, if the case is not submitted to a jury, that the person so confined is not insane, or that he is not dangerous to himself or others and ought not longer to be so confined, he shall be discharged from confinement.

Custody of insane persons after discharge. 1886, 319, §§ 1, 2, 4. 1897, 451. 1898, 433, § 28.

SECTION 100. Upon the discharge of an insane person from an insane hospital or asylum, the overseers of the poor in the place of his settlement, if any, or in Boston, the insane hospital trustees, shall have the legal custody of his person and may make provision for his maintenance and treatment at such asylum, almshouse, private dwelling or other place as they consider expedient. If he has no known settlement in this commonwealth, the state board of insanity shall have the legal custody of his person and may make such provision for his maintenance and treatment at any place within this commonwealth or elsewhere as said board considers suitable. But no insane person who has sufficient property or friends able and willing to support him shall be subject to the control of the overseers of the poor, or in Boston, of the insane hospital trustees, as a pauper, or be restrained under their authority except by a decree of court for sufficient reasons which shall be stated therein.

Clothing, etc., to be furnished on discharge. 1834, 150, § 9. R. S. 48, § 13. G. S. 73, § 32. 1862, 223, § 16. P. S. 87, § 45. 1900, 451, § 1. 1901, 303, § 1. [1 Op. A. G. 159.]

SECTION 101. An insane pauper shall not be discharged from a state hospital without suitable clothing; and the trustees may furnish the same at their discretion, and such amount of money, not exceeding twenty dollars, as they may consider necessary. Such money and the cost of such clothing, the expense of pursuing such insane paupers as escape therefrom, and of burial of such as die in the hospitals, shall, until the first day of January in the year nineteen hundred and four, be reimbursed to the commonwealth by the places of legal settlement of city and town paupers.

PLACING IN FAMILIES.

SECTION 102. The state board of insanity may, if it considers it expedient, place insane persons of the chronic and quiet class at board in suitable families in the commonwealth. The cost to the commonwealth of such board of insane paupers shall not exceed three dollars and twenty-five cents a week for each person.

Insane persons may be boarded in families. 1885, 385, § 1. 1886, 101, § 4. 1898, 433, §§ 24, 28.

SECTION 103. Bills for the support of insane persons who are boarded in families at the expense of the commonwealth shall be payable quarterly, and shall be audited by the state board of insanity, which shall, at the end of March, June, September and December, present to the auditor a schedule of all such bills as have been incurred during the quarter; and the board shall keep a register in such form that the auditor shall be able to verify such schedules.

Bills for board, how paid. 1885, 385, § 2.

SECTION 104. The state board of insanity shall cause all insane persons who are boarded in families at the expense of the commonwealth to be visited at least once in three months, and all insane persons who are boarded in families at the expense of cities and towns and whose residence is made known to said board, to be visited in like manner at least once in six months by an agent of said board.

Visitations by board. 1885, 385, § 3. 1886, 101, § 4. 1898, 433, § 27.

SECTION 105. Said board shall remove to an insane hospital or to a better boarding place all insane state paupers who, upon visitation, are found to be abused, neglected or improperly cared for when boarded out in families; and may remove to an insane hospital an insane person who is boarded at the expense of a city or town and is found to be unsuitably provided with a boarding place.

Removal of neglected persons. 1885, 385, § 4.

COUNTY RECEPTACLES.

SECTION 106. There shall be in each county within the precincts of the house of correction, or if in the opinion of the county commissioners it cannot be conveniently provided therein, then in some other building or buildings, which shall be deemed a part of the house of correction, a convenient apartment or receptacle for the confinement of insane persons who are not furiously mad.

County receptacles, etc., for insane persons. 1836, 223, § 1. 1842, 100. G. S. 74, § 1. P. S. 87, § 46.

SECTION 107. An insane person who is confined by legal authority in a jail, house of correction or such county receptacle may, by order of the governor, be removed therefrom to any of the state insane hospitals, or to any other jail, house of correction or other suitable place, if it appears to him that such removal would be expedient and just; and the sheriff of the county in which such person is confined shall execute such order and convey the insane person to the place therein designated.

Removal of insane persons confined in jails. 1838, 73, § 3. 1854, 95. G. S. 74, § 7. 1880, 250, § 6. P. S. 87, § 50.

SECTION 108. The keeper of a jail, house of correction or county receptacle shall not contract for supporting within the county buildings any insane town pauper, without first obtaining the

Jailers, etc., not to contract for support of insane paupers.

1832, 163, § 7. 1834, 150, § 8. R. S. 48, § 12. G. S. 74, § 10. P. S. 87, § 52.

approval in writing of the county commissioners. Whoever violates the provisions of this section shall forfeit not less than one hundred dollars.

CITY ASYLUMS FOR CHRONIC INSANE.

City asylums for chronic insane. 1884, 234, §§ 1, 2. 1900, 451, §§ 1, 2.

SECTION 109. A city having more than fifty thousand inhabitants may maintain therein until the first day of January in the year nineteen hundred and four one or more asylums for the care and treatment of the chronic insane of such city, or of any other city or town, and may enact suitable ordinances relative to the maintenance and management thereof. The provisions of section fifty-two shall apply to such asylums and they may receive insane persons who may be committed according to the provisions of section thirty-three; but no person whose insanity has existed for less than six months shall be committed to nor detained therein, except as provided in said section fifty-two. Every such asylum shall be under the care of proper medical officers having experience in the care of the insane. The city of Boston may establish such asylums, and the provisions limiting the right to maintain them until said first day of January shall not apply to said city.

Inspection by state board. 1884, 234, § 3.

SECTION 110. The state board of insanity or its agent shall visit and inspect every such asylum at least once in every six months and may remove or transfer the inmates thereof in the same manner as it removes or transfers inmates of other hospitals or asylums, and may transfer and admit to said asylums patients supported by cities and towns in the state hospitals or elsewhere. The managers of any such asylum may discharge any inmate thereof when they consider it expedient.

PRIVATE INSANE ASYLUMS.

Private asylums to be licensed. 1864, 288, § 8. P. S. 87, § 53. [1 Op. A. G. 283.]

SECTION 111. The governor and council may license any suitable person to establish and keep an asylum or private house for the reception and treatment of insane persons, and may at any time revoke such license. Such asylum or private house shall be subject to visitation by the governor and council, or any committee thereof, and by the judge of probate of the county in which it is situated.

Penalty for keeping without license. 1864, 288, § 9. P. S. 87, § 54.

SECTION 112. Whoever establishes or keeps such asylum or private house without a license, unless otherwise authorized by law, shall forfeit not more than five hundred dollars.

MASSACHUSETTS SCHOOL FOR THE FEEBLE-MINDED.

Trustees of Massachusetts school for the feeble-minded. 1878, 126, § 2. P. S. 87, § 55. 1883, 239.

SECTION 113. There shall be six trustees, on the part of the commonwealth, of the Massachusetts school for the feeble-minded, two of whom shall be annually appointed by the governor, with the advice and consent of the council, for a term of three years.

Assistance by commonwealth. Res. 1851, 44. Res. 1861, 26. Res. 1874, 18. 1878, 126, § 2. P. S. 87, § 56. 1886, 298, § 4.

SECTION 114. The annual appropriation for the support of said school shall be made upon condition that the board of trustees shall be composed of twelve persons, six of whom shall be appointed by the governor, with the advice and consent of the council; that the governor, lieutenant governor, secretary of the commonwealth,

president of the senate, speaker of the house and the two chaplains of the general court shall constitute a board of visitors to visit and inspect the institution as often as they see fit, to examine the by-laws and regulations enacted by the corporation, and generally to see that the object of the institution is carried into effect; and that the members of the general court for the time being shall be, ex officiis, visitors of the institution, and have the privilege, during the sessions, of inspecting it. 1887, 123, § 1. Res. 1898, 66.

SECTION 115. The Massachusetts school for the feeble-minded shall maintain a school department for the instruction and education of feeble-minded persons who are within the school age or who in the judgment of the trustees thereof are capable of being benefited by school instruction, and a custodial department for the care and custody of feeble-minded persons beyond the school age or not capable of being benefited by school instruction. Departments. 1883, 239, § 1. 1886, 298, § 1.

SECTION 116. Persons received by said corporation shall from time to time be classified in said departments as the trustees shall see fit, and the trustees may receive and discharge pupils at their discretion, and may at any time discharge any pupil or other inmate and cause him to be removed to his home or to the place of his settlement or to the custody of the state board of insanity. They may also allow any inmate to be absent on a visit for not more than three months, and the liability of any person or place to said corporation for the support of such inmate shall not be suspended by reason of such absence unless, during such period, such inmate becomes a charge to the commonwealth elsewhere. Reception and classification of pupils. 1883, 239, § 2. 1886, 298, § 2. 1898, 433, § 28.

SECTION 117. Said corporation shall gratuitously receive, maintain and educate in the school department such indigent feeble-minded persons from this commonwealth as shall be designated by the governor upon the recommendation of the secretary of the board of education. Special pupils may be received from any other state or province at a charge of not less than three hundred dollars a year. The trustees may also at their discretion receive, maintain and educate in the school department other feeble-minded persons, gratuitously or upon such terms as they may determine. Gratuitous maintenance for indigent persons designated by the governor. 1883, 239, § 6. 1886, 298, § 3.

SECTION 118. If, upon application in writing, a judge of probate finds that a person is a proper subject for the Massachusetts school for the feeble-minded, he may commit him thereto by an order of commitment directed to the trustees thereof, accompanied by the certificate of a physician, who is a graduate of a legally organized medical college and who has practised three years in this commonwealth, that such person is a proper subject for said institution. The fee of the judge for hearing and determining the application shall be three dollars, and if he is required to go from his office or place of business to attend such hearing, an additional fee of one dollar and all necessary expenses of travel, which shall be paid upon the certificate of the judge by the county in which such application was heard. Commitment of feeble-minded persons. 1883, 239, § 5. 1886, 298, § 5.

SECTION 119. A person who intends to apply for the commitment of a feeble-minded person under the provisions of the preced- Notice of intention to apply for commitment.

1884, 88. 1886, 298, § 6.

ing section shall first give notice in writing to the overseers of the poor of the city or town in which such feeble-minded person resides, of such intention; but if such feeble-minded person resides in Boston, such notice shall be given to the institutions registrar or to the chairman of the insane hospital trustees instead of the overseers of the poor. Satisfactory evidence that such notice has been given shall be produced to the judge and shall accompany the order of commitment.

Charges for support of inmates. 1883, 239, § 3. 1886, 298, §§ 7, 10.

SECTION 120. The charges for the support of each inmate in the custodial department of said school shall be three dollars and twenty-five cents a week, and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall, after approval by the state board of insanity, be paid by the commonwealth, and may afterward be recovered by the treasurer and receiver general of such inmates, if of sufficient ability, or of any person or kindred bound by law to maintain them, or of the place of their settlement, if subsequently ascertained; for those having known settlements in this commonwealth, either by the persons bound to pay or by the place in which such inmates had their settlement, unless security to the satisfaction of the trustees is given for such support. If any person or place refuses or neglects to pay such charges, or such amounts as may be charged and due for the removal of an inmate whom the trustees are authorized by law to remove, the treasurer may recover the same to the use of the school as provided in section seventy-nine.

Place paying charges of support, etc., may recover same from place of settlement, etc. 1883, 239, § 4. 1886, 298, § 8.

SECTION 121. A city or town which pays the charges and expenses for the support or removal of a feeble-minded person admitted to said school shall have like rights and remedies to recover the amount thereof with interest and costs from the place of his settlement, or from such person if of sufficient ability, or from any person bound by law to maintain him, as if such charges and expenses had been incurred in the ordinary support of such feeble-minded person.

Reports of trustees. 1886, 298, § 9. 1898, 433, § 26.

SECTION 122. The trustees of said school shall annually prepare and send to the state board of insanity a written or printed report of its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of September, stating the amount appropriated by the commonwealth, the amount expended under said appropriation, the whole number and the average number of inmates, the number and salaries of officers and employees, and such other information as the board may require, and shall also once in three months make a report to said board of the number of inmates received and discharged, respectively, during the preceding three months, the whole number then in the institution and the number of beneficiaries supported by the commonwealth, and such other information as the board may require.

Transfers to school. 1886, 298, § 10. 1898, 433, § 28.

SECTION 123. The state board of insanity may from time to time transfer from the state hospital, state farm, or any of the state insane hospitals, to the Massachusetts school for the feeble-minded any inmate whose condition would be benefited by such transfer, upon the certificate of a physician that he is a proper subject for said institution.

HOSPITAL COTTAGES FOR CHILDREN.

SECTION 124. The governor, with the advice and consent of the council, shall appoint five trustees of the hospital cottages for children who shall hold their offices for a term of three years from the date of their appointment. They shall serve without compensation, and, with the trustees elected by said corporation, shall have the management of the business and property of said corporation and the general supervision of its cottages.

Hospital cottages, trustees of. 1887, 441, § 2. 1890, 354, § 2. 1892, 407. [1 Op. A.G. 68.]

SECTION 125. The trustees of said corporation shall annually prepare and send to the state board of insanity a written or printed report of all its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of June, stating the amount expended under any appropriation from the general court, the whole number and average number of beneficiaries, the number and salaries of officers and persons employed, and such other information as said board may require.

— annual report of trustees of. 1887, 441, § 3. 1898, 433, § 24.

SECTION 126. The state board of insanity may send to and keep at said hospital cottages for children such number of children afflicted with epilepsy or other chronic diseases as shall be approved by the trustees and superintendent thereof, to be maintained at such expense to the commonwealth as shall be determined by said state board and said trustees.

— children to be sent to. 1887, 441, § 4. 1889, 230, § 2. 1898, 433, § 24.

APPROPRIATIONS.

SECTION 127. An annual appropriation shall be made for the support of each of the state insane hospitals and insane asylums, the Massachusetts hospital for dipsomaniacs and inebriates, the Massachusetts hospital for epileptics, the Massachusetts state sanatorium, and the Massachusetts school for the feeble-minded. The amount of the appropriation shall be determined by estimating, at the rate of board fixed by law, the cost of the average daily number of state patients for the preceding year, increased by a number equal to the average annual increase in the number of such patients for the preceding five years, in each of said institutions; and a statement showing said average number and said annual increase in number shall be annually submitted to the auditor by the trustees of each of said institutions on or before the fifteenth day of December. The salaries and wages of all officers and employees and all bills for supplies and other expenses of said institutions shall be paid from the treasury of the commonwealth, upon detailed schedules sworn to by the superintendent and approved by the trustees. Full copies of the pay rolls and bills shall be kept at each institution, but the originals shall be deposited with the auditor as vouchers.

Annual appropriations. 1901, 303, § 1.

SECTION 128. All money which is received from cities and towns or from persons for the support of inmates in said hospitals, asylums or other institutions, and money which is received for articles sold therein, shall be paid into the treasury of the commonwealth as often as once in each month; and so much of said receipts as may be needed to pay the expenses of said institutions may be used for that purpose, and any excess of receipts above expenditures remaining

Disposition of receipts. 1901, 303, § 2.

in the treasury of the commonwealth may be used for the expenses of the succeeding year; but payments of said expenses shall be allowed by the auditor only upon schedules duly certified and approved, as required by the preceding section, and the receipts from any one of said institutions shall be applied to paying the bills at such institution only.

Application of two preceding sections. 1901, 303, § 4.

SECTION 129. The provisions of the two preceding sections shall not affect the powers of the trustees of said institutions under the provisions of section twenty-three of this chapter, of section three of chapter eighty-eight and of chapter one hundred and fifty of the acts of the year eighteen hundred and fifty, and acts in amendment thereof, nor their right to regulate or control the expenditure of any funds held by them under the provisions of said acts.

CHAPTER 88.

OF THE MASSACHUSETTS STATE SANATORIUM.

Board of trustees. 1895, 503, § 1. 1900, 192.

SECTION 1. The board of trustees of the Massachusetts state sanatorium shall consist of five persons, one of whom shall annually, before the first Monday in July, be appointed by the governor, with the advice and consent of the council, for a term of five years from said day. Any such trustee may be removed by the governor, with the advice and consent of the council, for such cause as they consider sufficient and express in the order of removal.

Use of land held by trustees. 1895, 503, § 2.

SECTION 2. The land held by said trustees in trust for the commonwealth for the use of said sanatorium shall not be taken for a street, highway or railroad without leave of the general court specially obtained.

Trustees to be a corporation. 1895, 503, § 3.

SECTION 3. The trustees shall be a corporation for the same purposes for which the trustees of each of the state insane hospitals are made a corporation by the provisions of section twenty-three of chapter eighty-seven, with all the powers necessary to carry said purposes into effect.

Powers and duties of trustees. 1895, 503, § 5.

SECTION 4. Said trustees shall have the same powers and shall be required to perform the same duties in the management and control of said sanatorium as are vested in and required of the trustees of the various state insane hospitals under the provisions of sections twenty-six, twenty-seven and twenty-nine of chapter eighty-seven.

Compensation, etc., of trustees. 1895, 503, § 7.

SECTION 5. Said trustees shall receive no compensation for their services, but they shall be reimbursed by the commonwealth for all expenses actually incurred by them in the performance of their official duties.

Physicians, assistants, etc. 1895, 503, § 8.

SECTION 6. Said trustees may appoint the physicians, assistants and employees necessary for the proper administration of the affairs

of said sanatorium and may incur all expenses necessary for the maintenance of the same. They shall provide homœopathic medical treatment for all patients who desire it and for that purpose shall appoint such number of homœopathic physicians as may be necessary.

SECTION 7. The charges for the support of the inmates of said sanatorium who are of sufficient ability or have persons or kindred bound by law to maintain them shall be paid by such inmates, such persons or such kindred at a rate to be determined by the trustees of said sanatorium. The board of such inmates as have a legal settlement in a city or town shall be paid by said city or town if such patients are received at said sanatorium on the request of the overseers of the poor thereof. The trustees may in their discretion receive other patients who have no means to pay for treatment; and the board of all such patients shall be paid by the commonwealth. Charges for support of inmates, etc. 1895, 503, § 9.

SECTION 8. There shall be a thorough visitation of said sanatorium by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, at each of which a written report of the condition of the institution shall be prepared, which shall be presented at the annual meeting to be held in October. At the annual meeting, the trustees shall make a detailed report in the same manner as is required of the trustees of the state insane hospitals, and shall audit the report of the treasurer, which shall be presented at said annual meeting, and transmit it with their annual report to the governor and council. Visitation by trustees, annual report. 1895, 503, § 10.

SECTION 9. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees. Accounts. 1895, 503, § 11.

CHAPTER 89.

OF THE STATE BOARD OF AGRICULTURE AND THE DAIRY BUREAU.

SECTIONS 1–10. — Board of Agriculture.
SECTIONS 11–13. — Dairy Bureau.

BOARD OF AGRICULTURE.

SECTION 1. The governor and lieutenant governor, ex officiis, the secretary of the commonwealth, the president of the agricultural college, the secretary of the state board of agriculture, one person appointed from and by the Massachusetts society for promoting agriculture, one person appointed from and by each agricultural society which receives an annual bounty from the commonwealth, and three other persons appointed by the governor, with the advice and consent of the council, shall constitute the state board of agriculture. Board, how constituted. Const., pt. 2, c. VI., art. 2. 1852, 142, § 1. G. S. 16, § 1. 1866, 263, § 3. P. S. 20, § 1. 1894, 144. [1 Op. A. G. 406.]

SECTION 2. The term of office of the appointed members shall be three years, and one-third shall retire annually on the second Tenure. Vacancies. 1852, 142, §§ 1, 2.

G. S. 16, § 2.
P. S. 20, § 2.
1896, 254.

Wednesday of January. Appointments to fill vacancies other than those which occur from the expiration of terms shall be made in the same manner as original appointments for the residue of the unexpired term.

Meetings; members to receive no compensation.
1852, 142, § 4.
G. S. 16, § 3.
1866, 263, § 2.

SECTION 3. The board shall meet at the state house or at the agricultural college once in each year. No member shall receive compensation, but his personal expenses incurred in the performance of his official duties shall be paid by the commonwealth.

P. S. 20, § 3.

Secretary and clerks and their salaries.
1852, 142, § 4.
Res. 1854, 72.
Res. 1859, 46.
G. S. 16, § 4.
1862, 164.
1865, 243.
1867, 167, § 4.
1869, 96, § 2.
1873, 377, § 9.
1879, 235.
1881, 264.
P. S. 20, § 4.
1883, 184.
1884, 66.
1887, 245.
1891, 300.
1892, 143.
1893, 130.
1898, 459.

SECTION 4. The board may appoint and prescribe the duties of a secretary, who shall receive an annual salary of twenty-five hundred dollars, and who, with the approval of the board, may employ two clerks, the first at an annual salary of eighteen hundred dollars and the second at an annual salary of fourteen hundred dollars, and may expend for other clerical services and for lectures before the board of agriculture not more than eight hundred dollars a year. The secretary may publish for general distribution such parts of the annual report of said board as he considers best adapted to promote the interests of agriculture; but the expense of such publication shall be paid out of the appropriation for the dissemination of useful information in agriculture by the board. 1901, 130, 335.

General agent.
1891, 412, § 6.
1900, 368.

SECTION 5. The board shall at its annual meeting appoint a general agent of the dairy bureau to assist the bureau and under its direction to superintend the work provided for in section eleven. He shall receive an annual salary of twelve hundred dollars and his necessary expenses.

Duties of board.
1852, 142, § 3.
G. S. 16, § 5.
P. S. 20, § 6.

SECTION 6. The board shall investigate subjects relating to improvement in agriculture, and may take and hold in trust gifts or bequests to it for promoting agricultural education or the general interests of husbandry.

Board to fix days for annual meetings of agricultural societies, etc.
1847, 69, § 4.
1852, 142, § 4.
1853, 127, § 2.
G. S. 16, §§ 6, 8.
1866, 189, § 3.
P. S. 20, §§ 7, 9.

SECTION 7. It may fix the days on which the agricultural societies shall commence their exhibitions, may prescribe forms for and regulate their returns and shall furnish to their secretaries the necessary blanks to secure uniform and reliable statistics. The secretary of the board shall, in each year, cause to be made and published for distribution an abstract of their returns.

Report to general court.
1852, 142, § 4.
G. S. 16, § 7.
P. S. 20, § 8.

SECTION 8. The board shall annually, on or before the fourth Wednesday of January, submit to the general court a detailed report of its transactions, with such recommendations and suggestions as the interests of agriculture may require.

Agents.
1859, 203, § 1.
G. S. 16, § 9.
P. S. 20, § 10.

SECTION 9. The secretary may appoint agents, who shall visit the towns in the commonwealth to inquire into the methods and needs of practical husbandry, ascertain the adaptation of agricultural products to soil, climate and markets, encourage the establishment of farmers' clubs, agricultural libraries and reading rooms, disseminate useful information in agriculture by lectures or otherwise, and annually in October make detailed reports to him.

SECTION 10. The board shall be a board of overseers of the Massachusetts agricultural college, with powers and duties to be defined by the governor and council, but such powers and duties shall not control the action of the trustees of said college or be inconsistent with the provisions of chapter two hundred and twenty of the acts of the year eighteen hundred and sixty-three.

Board to be overseers of agricultural college. 1866, 263, § 1. P. S. 20, § 5.

DAIRY BUREAU.

SECTION 11. The dairy bureau of the board of agriculture shall consist of three members of said board, one of whom shall annually, before the first day of July, be appointed by the governor, with the advice and consent of the council, for a term of three years, or for such shorter term as he may continue a member of the board. The governor may, at any time, terminate the service of any member of said bureau, and thereupon, or upon any member thereof ceasing to be a member of the board, he may appoint another member in his place. Each member of such bureau shall receive five dollars for each day of actual service and his travelling expenses, which shall be paid by the commonwealth out of the fund provided for in the following section. The bureau, under the general direction of the board of agriculture, shall inquire into the methods of making butter and cheese in creameries or cheese factories, investigate all dairy products and imitation dairy products bought or sold within the commonwealth, enforce the laws for the manufacture, transfer and sale thereof, and shall disseminate such information as will tend to produce a better quality thereof. The secretary of the board of agriculture shall be the executive officer of the bureau, subject to its control and direction, and shall receive, in addition to his salary as secretary, five hundred dollars a year from the commonwealth.

Dairy bureau; appointment, duties. 1891, 412, §§ 7, 11. 1892, 139.

SECTION 12. The bureau may expend not more than seven thousand dollars annually in its work, and it may co-operate with the state board of health and with inspectors of milk, but it shall not interfere with the duties of such board or officers. It shall annually, before the fifteenth day of January, report to the general court in detail the number of agents, assistants, experts and chemists employed by it, with their expenses and disbursements, of all investigations made by it, of all cases prosecuted with the results thereof, and other information advantageous to the dairy industry.

Expenditures authorized; annual report. 1891, 412, §§ 8, 10. 1895, 214.

SECTION 13. The bureau and its agents and assistants shall have access to all places of business, factories, buildings, carriages and cars used in the manufacture, transportation or sale of dairy products or imitations thereof, and to all vessels and cans used in such manufacture and sale, and shall have the authority given to the state board of health or its officers, or to inspectors of milk, to enforce and prosecute violations of all laws relating to dairy products or imitations thereof. Whoever hinders, obstructs or in any way interferes with an officer or duly authorized agent of the dairy bureau in the performance of his duty shall be punished by a fine of one hundred dollars for the first offence and of two hundred dollars for each subsequent offence, which shall be payable into the treasury of the commonwealth.

Bureau to have access to places where dairy products are sold, etc.; to prosecute violations of law. 1891, 412, §§ 9, 12. 1894, 280, § 5.

CHAPTER 90.

OF THE BOARD OF CATTLE COMMISSIONERS AND OF CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

Board of cattle commissioners. 1860, 192, § 1; 221, § 1. 1862, 28, § 1. P. S. 90, § 12. 1885, 378. 1894, 491, § 36. 1899, 408, § 1. [1 Op. A. G. 556.]

SECTION 1. There shall be a board of cattle commissioners consisting of three persons, one of whom shall annually, in May, be appointed by the governor, with the advice and consent of the council, for a term of three years from the first day of the following June. The governor and council may remove any member of the board and may revoke the commissions of the entire board if, in their opinion, the public safety will permit. Each member of the board shall receive, as compensation, not more than five dollars a day for each day of actual service and his actual travelling expenses which have been necessarily incurred.

Clerks, officers, agents, etc. 1893, 306, § 7. 1894, 491, §§ 43, 52. 1899, 408, §§ 2, 7.

SECTION 2. The board may appoint a clerk who shall receive such compensation, not exceeding five hundred dollars a year, as the board may determine. It may also from time to time appoint officers, agents and assistants, who shall have the authority and powers of inspectors under the provisions of section twenty-three, shall receive such compensation as the board may determine and may at any time be removed by the board.

Records and report. 1887, 252, § 19. 1894, 491, § 51. 1899, 408, § 3.

SECTION 3. The board shall keep a full record of its doings and shall annually, on or before the tenth day of January, or sooner if required by the governor, make a report thereof to the general court, an abstract of which shall be printed in the annual report of the state board of agriculture.

Regulations, record of. 1860, 221, § 6. P. S. 90, § 16. 1894, 491, §§ 38–40. 1899, 408, §§ 4, 5, 13.

SECTION 4. The board may from time to time make orders and regulations relative to the prevention, suppression and extirpation of contagious diseases of domestic animals, and relative to the inspection, examination, quarantine, care and treatment or destruction of such animals which are affected with, or have been exposed to, such diseases, and relative to the burial or other disposal of their carcasses and the cleansing and disinfection of districts, buildings or places in which such contagion exists or has existed. It shall also from time to time make and prescribe forms for records of inspectors, certificates of examinations, notices and orders of quarantine, orders for killing and burial, and for returns of inspectors which are required by this chapter. All orders and regulations made by the board shall be entered on its records, and a copy thereof shall be sent to each inspector in the city or town to which the orders or regulations apply, and be published by him in such manner as the orders or regulations may prescribe.

Hospitals and quarantine. 1860, 221, § 3. 1878, 24, § 1. P. S. 90, § 14. 1887, 252, § 11. 1894, 491, § 41. 1899, 408, § 6.

SECTION 5. The board may establish hospitals or quarantine stations, with proper accommodations, wherein, under prescribed regulations, animals selected by it may be confined and treated for the purpose of determining the characteristics of a specific contagion and the methods by which it may be disseminated or destroyed, and may direct inspectors to enforce and carry into effect all regulations made from time to time for that purpose.

SECTION 6. If the board or any one of its members or agents, by examination of a case of contagious disease of domestic animals, is of opinion that the public good so requires, it or he shall cause the diseased animal to be securely isolated or to be killed without appraisal or payment. An order for killing shall be issued in writing by the board or any of its members, may be directed to an inspector or other person, and shall contain such direction as to the examination and disposal of the carcass and the cleansing and disinfection of the premises where such animal was condemned as the board or commissioner consider expedient. A reasonable amount may be paid from the treasury of the commonwealth for the expense of such killing and burial. If thereafter it appears, upon post mortem examination or otherwise, that such animal was free from the disease for which it was condemned, a reasonable amount therefor shall be paid to the owner by the commonwealth. If any cattle which are condemned as afflicted with tuberculosis are killed under the provisions of this section, the full value thereof at the time of condemnation, not exceeding forty dollars for any one animal, shall be paid to the owner by the commonwealth if such animal has been owned within the commonwealth six consecutive months prior to being killed, or if it has been inspected and satisfactory proof has been furnished to the board by certificate or otherwise that it is free from disease, and if the owner has not, prior thereto, in the opinion of the board, by wilful act or neglect, contributed to the spread of tuberculosis; but such decision shall not deprive the owner of the right of arbitration as hereinafter provided.

Isolation, etc., of affected animals.
1860, 192, § 2; 219, § 2; 221, § 7. 1878, 24, § 1. 1879, 160. 1881, 184. P. S. 90, §§ 17, 18. 1887, 252, §§ 12, 13. 1892, 195, § 3. 1893, 306, § 2. 1894, 491, § 45. 1895, 496, § 10. 1899, 408, § 8. 1901, 252. 152 Mass. 541. [1 Op. A. G. 234, 260, 532.]

SECTION 7. The board may make regulations for the inspection of meat, which shall conform to the regulations of the United States bureau of animal industry for the inspection of meat for export and for interstate commerce.

Regulations for inspection of meat.
1898, 451, § 2. 1899 408, § 9.

SECTION 8. The board may examine under oath all persons who are believed to possess knowledge of material facts relative to the existence or dissemination, or danger of dissemination, of contagious diseases among domestic animals, or relative to any other matter within the provisions of this chapter and each member of said board, for the purposes of this chapter, shall have all the powers vested in justices of the peace by chapters one hundred and sixty-one and one hundred and seventy-five to take depositions, to compel witnesses to attend and testify before said board and to administer oaths. Witnesses shall receive the same fees for attendance and travel as witnesses before the superior court. The expense of procuring the attendance of such witnesses shall be paid by the commonwealth. Copies of the records of said board, or of any order or regulation issued by it or by any of its members, if duly certified by its clerk, and any certificate by its clerk of the issuing, recording, delivering or publishing of such orders or regulations under the provisions of section four, shall be competent evidence of such fact in any tribunal.

Examinations by the board under oath.
1862, 138, § 1. 1878, 24, § 1. P. S. 90, § 22. 1885, 148, § 4. 1887, 252, § 17. 1894, 491, § 49. 1895, 496, § 12. 1899, 408, § 10.

SECTION 9. A member of the board or an inspector may require sheriffs, constables and police officers to assist him in the performance of his duties, and sheriffs, constables and police officers shall upon request assist such commissioner or inspector and shall have

Aid by sheriffs, etc.
1894, 491, § 57. 1899, 408, § 11.

the same powers and protection, while engaged in the performance of their duties, as peace officers.

Quarantine of imported animals.
1887, 252, § 20.
1894, 491, § 53.
1899, 408, § 12.

SECTION 10. If animals are brought into this commonwealth from places outside, which, in the opinion of the board, are infected, they may be seized and quarantined by the commissioners at the expense of their owners or consignees, so long as the public safety requires; and, if in their opinion safety so requires, they may cause such animals to be killed without appraisal or payment.

Notice to board of contagious diseases.
1860, 219, § 9; 221, § 5.
1878, 24.
1879, 178.
P. S. 90, §§ 9, 15.
1885, 148, §§ 1, 2.
1887, 252, §§ 6, 7.
1894, 491, §§ 29, 30.
1899, 408, §§ 14, 15.

SECTION 11. The board of health of a city or town, any member or agent thereof or any other person who has knowledge of or reason to suspect the existence of any contagious disease among any domestic animals in this commonwealth, or that any domestic animal is affected with such contagious disease, whether such knowledge is obtained by personal examination or otherwise, shall immediately give notice thereof in writing to the board of cattle commissioners or to any of its members, agents or inspectors. Whoever fails to give such notice shall be punished by a fine of not more than one hundred dollars; but no such notice shall be required in the city of Boston relative to glanders, farcy or rabies, which shall be cared for by the board of health of said city. Upon the receipt of such notice, the board shall inspect or cause its authorized agent to inspect any such animals, and if upon such inspection said board or agent suspects or has reason to believe that contagion exists, it or he shall proceed according to the provisions of sections eighteen to twenty-one, inclusive.

Inspectors of animals.
1872, 231, § 1.
1875, 29, § 1.
1876, 180, § 1.
P. S. 58, § 1.
1892, 195, § 1; 432.
1893, 306, § 6.
1894, 491, § 1.
1899, 408, § 17.

SECTION 12. The mayor and aldermen in cities, except Boston, and the selectmen in towns shall annually, in March, subject to the approval of the board of cattle commissioners, appoint one or more inspectors of animals, and before the first day of April shall send to said board the name, address and occupation of each qualified inspector. They may remove any inspector, and shall thereupon immediately appoint another in his place and send notice thereof to said board.

— appointment of, by board.
1893, 306, §§ 5, 6.
1894, 491, § 2.
1899, 408, § 18.

SECTION 13. A city or town shall, for each refusal or neglect of its officers to comply with the requirements of the preceding section, forfeit not more than five hundred dollars. Said board may appoint one or more inspectors for such city or town, and may remove an inspector who refuses or neglects to be sworn or who, in the opinion of the board, does not properly perform the duties of his office and may appoint another inspector for the residue of his term.

— oath of; compensation.
1872, 231, § 1.
1875, 29, § 1.
1876, 180, § 1.
P. S. 58, § 1.
1893, 306, § 5.
1894, 491, § 2.
1895, 476.
1899, 408, §§ 17, 18, 30.

SECTION 14. An inspector shall be sworn to the faithful performance of his official duties, and shall receive a reasonable compensation from the city or town for which he is appointed. If he is appointed by the board of cattle commissioners, his compensation shall be fixed by said board, shall not exceed five hundred dollars a year, and shall be paid by the city or town for which he is appointed. In towns having a valuation of less than two and one-half million dollars, one-half of such compensation, not exceeding two hundred and fifty dollars for each inspector in any one year, shall be paid by the commonwealth.

SECTION 15. An inspector shall keep a record of all inspections made by him and his doings thereon, and shall make regular returns thereof to the board. The board shall prescribe the form in which and the times at which such records and returns shall be made and it may at any time inspect them and make copies thereof.

Inspectors of animals, records of.
1894, 491, § 5.
1899, 408, § 19.

SECTION 16. An inspector shall comply with and enforce all orders and regulations which may be directed to him by the board of cattle commissioners or by any of its members. If he refuses or neglects so to do, he shall be punished by a fine of not more than five hundred dollars.

— duties of.
1894, 491, §§ 3, 42.
1899, 408, §§ 21, 31.

SECTION 17. Said inspectors shall make regular and thorough inspections of all neat cattle, sheep and swine found within the limits of their several cities and towns, except as provided in section eleven. Such inspections shall be made at such times and in such manner as the board shall from time to time order. They shall also from time to time make inspections of all other domestic animals within the limits of their several cities and towns if they know, or have reason to suspect, that such animals are affected with or have been exposed to any contagious disease, and they shall immediately inspect all domestic animals and any barn, stable or premises where any such animals are kept whenever directed so to do by the board or any of its members; but the provisions of this section shall not apply to the inspection of sheep or swine slaughtered in wholesale slaughtering establishments, or to the obtaining of a license for the slaughtering of such sheep or swine.

Inspection of domestic animals.
1892, 195, § 2.
1894, 491, § 4.
1895, 496, § 1.
1899, 408, § 22.

SECTION 18. An inspector who is satisfied, upon an examination of any neat cattle, sheep or swine, that they are free from contagious disease, shall deliver to the owner or to the person in charge thereof a written certificate of their condition, in such form as the board shall prescribe, signed by him, and shall enter a copy of said certificate upon his records.

Certificate of healthy condition.
1894, 491, § 6.
1895, 496, § 2.
1899, 408, § 23.

SECTION 19. An inspector who, upon an examination of a domestic animal, suspects, or has reason to believe, that it is affected with a contagious disease shall immediately cause it to be quarantined or isolated upon the premises of the owner or of the person in whose charge it is found, or in such other place or inclosure as he may designate, and shall take such other sanitary measures to prevent the spread of such disease as may be necessary or as shall be prescribed by any order or regulation of the board. He shall also deliver to the owner or person in charge of such animal, or to any person having an interest therein, a written notice or order of quarantine signed by him, in such form as the board shall prescribe, and shall enter a copy of said notice upon his records.

Quarantine of infected animals.
1860, 219, § 1.
1878, 24, § 1.
P. S. 90, § 1.
1894, 491, § 7.
1899, 408, § 24.

SECTION 20. Such notice or order may be served by an officer qualified to serve civil process, or it may be delivered by the inspector to the owner or person having an interest in the animal concerned or to the person in charge of such animal, or it may be left at his last and usual place of abode or may be posted upon the premises where said animal is quarantined or isolated. A copy

Service of notice of quarantine.
1894, 491, § 8.
1899, 408, § 25.

thereof, with the return of said officer or inspector thereon that such service has been made, shall be competent evidence in any court that such quarantine has been imposed. If an animal has been so quarantined, it shall remain in quarantine until the further order of the board or of one of its members.

Expense of quarantine. 1860, 219, § 1. 1878, 24, § 1. P. S. 90, § 1. 1887, 252, § 1. 1894, 491, § 27. 1895, 496, § 9. 1899, 408, § 26. 168 Mass. 236. [1 Op. A. G. 572.]

SECTION 21. If animals have been quarantined, collected or isolated upon the premises of the owner or of the person in possession of them at the time such quarantine is imposed, the expense thereof shall be paid by such owner or person; but if specific animals have been quarantined or isolated under the provisions of section five or section nineteen for more than ten days upon such premises, as suspected of being affected with a contagious disease, and the owner is forbidden to sell any of the product thereof for food, or if animals have been quarantined, collected or isolated on any premises other than those of such owner or person in possession thereof, the expense of such quarantine shall be paid by the commonwealth.

Notice of quarantine to board. 1894, 491, § 9. 1899, 408, § 27.

SECTION 22. An inspector who has caused a domestic animal to be quarantined, as provided in the preceding section, shall immediately give a written notice thereof, with a copy of the order of quarantine, to the board, and shall give such information to no other person.

Entry on premises. 1894, 491, § 13. 1899, 408, § 28.

SECTION 23. An inspector, duly qualified, may enter any building or part thereof or any enclosure or other place where an animal is kept, for the purpose of inspecting or examining such animal and may examine or inspect the same. Whoever prevents, obstructs or interferes with such inspector or other person having the power and authority of an inspector in the performance of any of his duties as provided herein, or whoever hinders, obstructs or interferes with his making such inspection or examination, or whoever secretes or removes any animal, for the purpose of preventing it from being inspected or examined, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Examination of barns, etc. 1899, 408, § 29.

SECTION 24. Inspectors shall, in addition to their inspections of animals for contagious diseases, examine the barns, stables or other enclosures in which neat cattle are kept, with reference to their situation, cleanliness, light, ventilation and water supply, and the general condition and cleanliness of the said neat cattle, and shall make a detailed report, with names and residences of owners, to the board, which shall embody it in its annual report to the general court.

Penalties. 1894, 491, § 34. 1899, 408, § 32.

SECTION 25. An animal which has been quarantined or isolated by order of the board of cattle commissioners or of any of its members or agents, or of an inspector, shall, during the continuance of such quarantine or isolation, be deemed to be affected with a contagious disease. Whoever knowingly breaks or authorizes or causes to be broken a quarantine so imposed, or whoever, contrary to such order of quarantine or isolation, knowingly removes an animal or authorizes or causes it to be removed from a building,

place or enclosure where it is quarantined or isolated, or whoever, contrary to an order or notice of quarantine, knowingly places or causes or authorizes to be placed any other animal or animals within a building, place or enclosure where an animal is quarantined, or in contact therewith, or whoever knowingly conceals, sells, removes or transports, or knowingly causes or authorizes to be concealed, sold, removed or transported, an animal, knowing or having reasonable cause to believe that it is affected with a contagious disease, or whoever knowingly authorizes or permits such animal to go at large upon any public way within this commonwealth, or whoever knowingly brings or authorizes or permits to be brought from another country, state, district or territory into this commonwealth, an animal which is affected with or has been exposed to a contagious disease, or whoever disobeys a lawful order or regulation of the board of cattle commissioners or of any of its agents or inspectors in the performance of their duty under the provisions of this chapter, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Assessment of damages. 1894, 491, § 46. 1895, 496, § 11. 1899, 408, § 33.

SECTION 26. If the owner who is entitled to compensation under the provisions of section six for the destruction of an animal affected with tuberculosis cannot agree with the commissioner condemning the same as to its value, the value shall be determined by arbitrators, one of whom shall be selected by the commissioner and one by the owner, or if the owner neglects or refuses for twenty-four hours to select one the arbitrator already selected shall select another, and if such arbitrators cannot agree, they shall select a third arbitrator. Such arbitrators shall be sworn faithfully to perform the duties of their office, and shall determine the value of such animal according to the provisions of section six; and the full value, so determined, shall be paid to the owner as provided in said section. Either party aggrieved by the doings of the board or of any of its members, under the provisions of section six, or by the award of such arbitrators, may file a petition for the assessment of his damages in the superior court for the county in which such animal was killed or in the county of Suffolk. Such petition shall be by or against the board of cattle commissioners, and a copy thereof shall be served upon the respondent or, if the petition is against said board of cattle commissioners, upon one of the commissioners, in the same manner as other civil process. The petition shall be filed in the clerk's office of the superior court within thirty days after the killing of such animal or animals and shall be subject to the provisions of sections fifty-six and seventy-four of chapter one hundred and seventy-three and the petition may be tried in the same manner as other civil cases. If, upon the trial, it is determined that such animal was not affected with the disease for which it was condemned, reasonable compensation may be awarded therefor, and if the owner recovers damages in excess of the amount previously awarded to him by the arbitrators or allowed to him by the commissioners, he shall recover costs; otherwise he shall pay costs. The damages, costs and expenses incurred by the commissioners in prosecuting or defending such action shall be paid by the commonwealth.

Notice to be given of contagious diseases.
1894, 491, § 35.
1899, 408, § 34.

SECTION 27. Whoever kills an animal or causes it to be killed, with the consent of the owner or person in possession thereof, upon suspicion that it is affected with or has been exposed to a contagious disease, and who, upon the inspection of the carcass thereof, finds or is of opinion that it is affected with a contagious disease, shall forthwith notify such owner or person in possession thereof and the board, its agent or inspector of the existence of such disease, and of the place where the animal was found, the name of the owner or person in possession thereof and of the disposal made of such carcass. Whoever violates the provisions of this section shall be subject to the same penalties as are provided in section twenty-three.

Contagious diseases defined.
1893, 306, § 3.
1894, 491, § 37.
1899, 408, § 35.

SECTION 28. Contagious diseases, under the provisions of this chapter, shall include glanders, farcy, contagious pleuro-pneumonia, tuberculosis, Texas fever, foot-and-mouth disease, rinderpest, hog cholera, rabies, anthrax or anthracoid diseases, sheep scab and actinomycosis.

Penalty for disobedience of order of board.
1860, 221, § 10.
1879, 178.
P. S. 90, § 19.
1887, 252, § 14.
1893, 306, § 4.

SECTION 29. Whoever fails to comply with a regulation made, or an order given, by the board of cattle commissioners or by any of its members, in the discharge of its or his duty, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

1894, 491, § 47. 1899, 408, § 36. 148 Mass. 375. [1 Op. A. G. 74.]

Certain cattle not to be driven on streets, etc.
1876, 137.
P. S. 90, §§ 26–28.
1887, 252, §§ 21–23.
1894, 491, §§ 54–56.
1899, 408, §§ 38–40.

SECTION 30. Texan, Mexican, Cherokee, Indian or other cattle, which the board has reason to believe may spread contagious disease, shall not be driven on the streets of a city or town or on any road in this commonwealth, or outside the stock yards connected with any railroad in this commonwealth, contrary to an order of the board, and they shall be kept in different pens from those in which other cattle are kept in all stock yards in the commonwealth. Whoever violates the provisions of this section shall be punished by a fine of not less than twenty nor more than one hundred dollars.

Use of tuberculin restricted.
1895, 496, § 14.
1896, 276.
1897, 165.
1899, 408, § 42.

SECTION 31. Tuberculin as a diagnostic agent for the detection of tuberculosis in domestic animals shall be used only upon cattle brought into the commonwealth and upon cattle at Brighton, Watertown and Somerville; but it may be used as such diagnostic agent on any animal in any other part of the commonwealth, with the consent in writing of the owner or person in possession thereof, and upon animals which have been condemned as tuberculous upon physical examination by a competent veterinary surgeon.

Compensation for animals tested with tuberculin.
1897, 499.
1899, 408, § 43.

SECTION 32. A person who has animals tested with tuberculin shall not be entitled to compensation from the commonwealth for any animals which react to the tuberculin test unless they have been tested by the board of cattle commissioners or its authorized agents, acting as such at the time of the test, and such testing shall be subject to the supervision and control of the board.

No compensation to violators of regulations.
1899, 408, § 44.

SECTION 33. No compensation shall be allowed by the commonwealth to an owner of condemned cattle who has failed to comply with the reasonable regulations of the board relative to cleanliness, ventilation, light, disinfection and water supply. An owner of cat-

tle who refuses to comply with any such regulation shall be punished by a fine of not more than fifty dollars.

SECTION 34. The superior court shall have jurisdiction in equity to enforce the provisions and restrain violations of the provisions of this chapter. Enforcement of provisions. 1894, 491, § 58. 1899, 408, § 41.

CHAPTER 91.

OF FISHERIES.

SECTIONS 1–8. — Commissioners on Fisheries and Game.
SECTIONS 9–14. — Fishways.
SECTIONS 15–26. — Fisheries in Great Ponds.
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SECTIONS 34–37. — Herring and Alewives.
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SECTIONS 44–55. — Regulation of Fishing near Fishways and with Nets, etc.
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SECTIONS 71–77. — Smelts.
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SECTIONS 81, 82. — Shiners and Sturgeon.
SECTIONS 83–85. — Eels, Clams, Quahaugs and Scallops.
SECTIONS 86–99. — Lobsters, Tautog and Other Fish.
SECTIONS 100–114. — Oysters and Other Shell Fish.
SECTION 115. — Shell Fish for Bait.
SECTIONS 116–130. — Regulation of Fish Weirs, Nets, Purses and Seines.
SECTIONS 131–139. — General Provisions.
SECTION 140. — Kelp and Seaweed.

COMMISSIONERS ON FISHERIES AND GAME.

SECTION 1. All laws relative to the culture, preservation, capture or passage of fish shall be known as the laws relative to fisheries. Laws relating to fisheries. 1869, 384, § 1.

P. S. 91, § 1. 133 Mass. 67. 152 Mass. 230. 139 U. S. 240.

SECTION 2. There shall be a board of commissioners on fisheries and game consisting of three persons who shall be appointed by the governor, with the advice and consent of the council, for the term of five years from the time of their appointments and who shall be removable at the pleasure of the governor. 1895, 56. Commissioners, how appointed, etc. 1866, 238, § 1. 1869, 384, § 2. 1872, 302. P. S. 91, § 2. 1886, 276, § 7.

SECTION 3. Each of the commissioners, the deputies of the commissioners or members of the district police may enforce the laws regulating fisheries; and may seize and remove, summarily if need be, all illegal obstructions to the passage of migratory fish except dams, mills or machinery, at the expense of the persons using or maintaining the same. — may enforce the laws, etc. 1869, 384, § 3. P. S. 91, § 3. 1884, 212, § 3. 1897, 288, § 1.

SECTION 4. The commissioners and their deputies, members of the district police and all officers qualified to serve criminal process — may arrest without warrant.

1886, 276, § 8. 1893, 105. 1897, 288, § 1. 158 Mass. 149.

may arrest without warrant any person whom they find violating any of the fish or game laws, except that persons engaged in the business of regularly dealing in the buying and selling of game as an article of commerce shall not be so arrested for having in possession or selling game at their usual places of business.

Stocking brooks with food fish. 1900, 284.

SECTION 5. If the owner of land within which a brook is wholly or partly situated agrees that such brook or part thereof shall be open to the public after the expiration of three years as hereinafter provided, the commissioners may, upon petition of thirty or more inhabitants of a city or town within which such brook is wholly or partly situated, including such owner, or upon petition of the mayor and aldermen of such city or the selectmen of such town and such owner, cause such brook to be stocked with food fish; and shall then make reasonable regulations, which shall be in force for a period of not more than three years, relative to fishing in such brook, may affix penalties of not more than twenty dollars for each violation thereof and shall cause such regulations to be enforced. There shall be allowed and paid annually from the treasury of the commonwealth an amount not exceeding five hundred dollars to carry out the provisions of this section.

Commissioners may take fish for fish culture. 1868, 130, § 3; 179, § 2.

SECTION 6. The commissioners may take fish or cause them to be taken at any time or in any manner for purposes connected with fish culture or scientific observation.

1869, 76, § 2; 384, § 5. P. S. 91, § 20.

Permits to take fish in Merrimac river. 1883, 121.

SECTION 7. They may issue permits for the taking of any variety of fish in the tidal waters of the Merrimac river and its tributaries, the taking of which is prohibited by law. Said permits shall be issued without any fee therefor and shall be revocable at the discretion of the commissioners.

Sawdust, discharge of, into streams. 1890, 129.

SECTION 8. If the commissioners determine that the fish of any brook or stream in this commonwealth are of sufficient value to warrant the prohibition or regulation of the discharge therein of sawdust from saw mills, and that the discharge of sawdust from any particular saw mill materially injures such fish, they shall, by an order in writing to the owner or tenant of such saw mill, prohibit or regulate the discharge of sawdust therefrom into such brook or stream. Such order may be revoked or modified by them at any time. Whoever, having been so notified, discharges sawdust or suffers or permits it to be discharged from a saw mill under his control into a brook or stream in violation of the order of said commissioners shall be punished by a fine of not more than twenty-five dollars.

FISHWAYS.

Commissioners may examine dams and fishways. 1735-6, 21, §§ 1, 2. 1741-2, 16, §§ 1, 2, 5. 1743-4, 26.

SECTION 9. The commissioners may examine all dams upon rivers where the law requires fishways to be maintained, shall determine whether the fishways, if any, are suitable and sufficient for the passage of the fish in such rivers, and shall prescribe by an order in writing what changes or repairs, if any, shall be made

therein and at what times the same shall be kept open, and shall give notice to the owners of the dams accordingly. The supreme judicial court, or the superior court, shall, upon the petition of the commissioners, have jurisdiction in equity or otherwise to enforce any order made in accordance with the provisions of this section, and to restrain any violation of such order.

1745-6, 20, §§ 1, 2, 5. 1764-5, 34, § 2. 1811, 175, § 4. 1866, 238, §§ 2, 6. 1867, 344, § 1. P. S. 91, § 4. 1899, 103. 104 Mass. 447.

SECTION 10. Such owners shall be notified by serving upon them a copy of the order; and a certificate of the commissioners that service has been so made shall be deemed sufficient proof thereof.

Notice to owners. 1866, 238, § 6. 1876, 50. P. S. 91, § 5.

SECTION 11. Any owner of such a dam who refuses or neglects to keep open or maintain a fishway at the times prescribed by the commissioners shall forfeit fifty dollars for each day of such refusal or neglect. 1741-2, 16, §§ 1, 3. 1811, 175, § 4. 1867, 344, § 2. 5 Pick. 199. 1745-6, 20, § 4. 1866, 238, § 15. P. S. 91, § 6. 10 Pick. 388.

Penalty for not keeping fishway open at prescribed times. 1735-6, 21, §§ 1, 2.

SECTION 12. If, in the opinion of the commissioners, a passage for edible fish should be provided or if any one of the commissioners finds that there is no fishway or an insufficient fishway in or around a dam where a fishway is required by law to be maintained, any one of the commissioners may, in his discretion, enter with workmen and materials upon the premises of the person required to maintain a fishway there and may, at the expense of the commonwealth, if in the opinion of the commissioners the person required by law to construct or maintain such fishway is not able to afford such expense, improve an existing fishway, or cause one to be constructed if none exists, and may, if necessary, take the land of any other person who is not obliged by law to maintain said fishway; and if a fishway has been constructed in accordance with the provisions of this section, the commissioners shall not require the owner of the dam to alter such fishway within five years after the completion thereof.

Commissioners may build fishways, etc. 1735-6, 21, § 2. 1741-2, 16, § 4. 1743-4, 26. 1811, 175, § 4. 1866, 238, §§ 7, 8, 12. 1869, 384, § 4. 1876, 50. P. S. 91, § 7. 1900, 344.

SECTION 13. All damages which are caused by taking land as provided in the preceding section, shall, upon the application of either party, be estimated in the same manner as land which has been taken for a highway and shall be paid by the commonwealth. Said expense shall be a charge against the person who is required by law to construct and maintain such fishway and shall be recovered in an action of contract in the name of the commonwealth, with costs and with interest at the rate of twelve per cent per annum.

Compensation for land taken. 1866, 238, §§ 7, 8. 1869, 384, § 4. P. S. 91, § 8.

SECTION 14. Each of the commissioners may, in the performance of his duties, enter upon and pass through or over private property. 1869, 384, § 6. P. S. 91, § 9.

Commissioners may enter on land, etc.

FISHERIES IN GREAT PONDS.

SECTION 15. The fishery of a pond, the area of which is more than twenty acres, shall be public, except as hereinafter provided; and all persons shall, for the purpose of fishing, be allowed reasonable means of access thereto. 7 Allen, 165. 170 Mass. 509.

Great ponds public. B. L. 16. C. L. 90, § 2. 1869, 384, § 8. P. S. 91, § 11.

Commissioners may occupy certain great ponds.
1869, 384, § 9.
1876, 62, § 1.
P. S. 91, §§ 12, 17.
1886, 248, § 2.

SECTION 16. The commissioners may occupy, manage and control not more than six great ponds, except such as have revested in the commonwealth for breach of the terms and conditions of any lease thereof, for the purpose of cultivating useful fish and of distributing them within the commonwealth; and may occupy not more than one-tenth part thereof with enclosures and appliances for the purpose of such cultivation; but this privilege shall not affect any public rights to such ponds, other than the right of fishing, and the appliances and enclosures shall be so placed as not to debar ingress to or egress from such ponds at proper places.

Notices of such occupation.
1876, 62, § 2.
P. S. 91, § 18.

SECTION 17. If the commissioners determine so to occupy and improve any such pond, they shall post a notice of such purpose in a public place in the town or towns in which said pond is situated and file a like notice in the office of the clerk of each of said towns and in the office of the secretary of the commonwealth. The affidavit of an officer qualified to serve civil process that such notice has been posted shall be deemed full proof thereof.

—rights of commissioners.
1876, 62, § 3.
P. S. 91, § 19.

SECTION 18. After such notice has been so filed and posted, any violation of any of the rights of said commissioners under the provisions of section sixteen shall be punished as provided in section twenty-nine.

Stocking great ponds.
1897, 208.

SECTION 19. The commissioners, upon the petition of the mayor and aldermen of a city or of the selectmen of a town within which a great pond or a portion thereof is situated, or of thirty or more inhabitants thereof, shall cause the waters of such pond to be stocked with such food fish as they judge to be best suited to such waters. They shall thereupon prescribe, for a period not exceeding three years, such reasonable regulations relative to the fishing in such ponds and their tributaries, with such penalties, not exceeding twenty dollars for one offence, as they deem to be for the public interest, and shall cause such regulations to be enforced. Five hundred dollars shall be annually appropriated by the commonwealth to carry out the provisions of this section.

Fishing in Mill pond.
1899, 107.

SECTION 20. The commissioners may occupy and control Mill pond, in the town of Yarmouth, for the purpose of cultivating food fish for distribution within the commonwealth. Whoever, without the written consent of the commissioners, fishes in said pond in any other manner than with hand line and single hook, shall forfeit not less than fifty nor more than two hundred dollars for the first offence, and not less than one hundred nor more than two hundred dollars for any subsequent offence.

County commissioners to measure great ponds.
1869, 384, § 11.
P. S. 91, § 21.

SECTION 21. The county commissioners shall, in July, upon the request and at the expense of any persons who claim to be interested in a great pond, cause a measurement thereof to be made which shall be recorded in the office of the town clerk of each town within which such pond is situated; and no arm or branch shall be included as a part of a pond unless it is at least fifty feet in width and one foot in depth.

SECTION 22. The selectmen of a town may measure ponds which are wholly within their town, in the manner provided in the preceding section, and such measurement shall be recorded in the office of the town clerk.

Selectmen may measure ponds, when. 1878, 134. P. S. 91, § 22.

SECTION 23. The riparian proprietors of any pond, the area of which is not more than twenty acres, and the proprietors of any pond or parts of a pond created by artificial flowing shall have exclusive control of the fisheries therein.

Exclusive fishery of riparian owners. 1869, 384, §§ 7, 12. P. S. 91, § 10. 119 Mass. 300.

SECTION 24. A pond which is not more than twenty acres in area and is bounded in part by land belonging to a town or county shall become the exclusive property of the individual proprietors as to the fisheries therein only upon payment to the town treasurer, county commissioners or treasurer and receiver general of a just compensation for their respective rights therein, to be determined by three persons, one of whom shall be a riparian proprietor of said pond, one the chairman of the board of selectmen, if the rights of a town are in question, or of the county commissioners, if the rights of a county or of the commonwealth are in question, and one to be appointed by the commissioners on fisheries and game.

Acquisition of exclusive fishery. 1869, 384, § 13. P. S. 91, § 23.

SECTION 25. Whoever, without the written consent of the proprietor or lessee of a natural pond, the area of which is not more than twenty acres, or of an artificial pond of any size, in which fish are lawfully cultivated or maintained, takes any fish therefrom, shall forfeit not more than twenty-five dollars for each offence.

Penalty for taking fish in certain ponds. 1874, 82, §§ 1, 2. 1879, 127. P. S. 91, § 24.

SECTION 26. Whoever draws, sets, stretches or uses a drag net, set net, purse net or seine in any pond, or aids in so doing, shall be punished by a fine of not less than twenty nor more than fifty dollars. The provisions of this section shall not affect the rights of riparian proprietors of ponds mentioned in section twenty-three nor the corporate rights of any fishing company.

Use of nets in ponds regulated. 1884, 318, §§ 1, 3.

CONTROL OF FISHERIES BY RIPARIAN PROPRIETORS.

SECTION 27. A riparian proprietor of an unnavigable stream may, within the limits of his own premises, enclose the waters thereof for the cultivation of useful fish if he furnishes a suitable passage for migratory fish naturally frequenting such waters.

Enclosure of unnavigable streams. 1869, 384, § 16. P. S. 91, § 25.

SECTION 28. Fish which are artificially propagated or maintained shall be the property of the person propagating or maintaining them. A person who is legally engaged in their culture and maintenance may take them in his own waters at pleasure, and may have them in his possession for purposes properly connected with said culture and maintenance, and may at all times sell them for these purposes, but shall not sell them for food at seasons when their capture is prohibited by law.

Ownership of fish artificially propagated. 1869, 384, §§ 18, 20. P. S. 91, § 26. 164 Mass. 480.

SECTION 29. Whoever, without the permission of the proprietors, fishes in that portion of a pond, stream or other water in which

Penalty for fishing where fish are artifi-

cially propagated.
1869, 384, § 19.
P. S. 91, § 27.
108 Mass. 441.
110 Mass. 175.
119 Mass. 300.

fish are lawfully cultivated or maintained shall forfeit not less than one nor more than twenty dollars for the first offence, and not less than five nor more than fifty dollars for any subsequent offence. 130 Mass. 469. 142 Mass. 71. 162 Mass. 219.

Definition of navigable streams.
1869, 384, § 14.
P. S. 91, § 28.

SECTION 30. For the purposes of this chapter, no tidal stream shall be considered navigable above the point where, on the average throughout the year, it has a channel less than forty feet wide and four feet deep during the three hours nearest the hour of high tide.

Governor may define tidal bounds and mouths of streams.
1869, 384, § 17.
P. S. 91, § 29.

SECTION 31. The governor, with the advice and consent of the council, may, for the purposes of this chapter, arbitrarily fix and define the tidal bounds and mouths of streams upon the recommendation of the commissioners on fisheries and game.

—may limit times of fishing in certain waters.
1869, 384, § 15.
P. S. 91, § 30.

SECTION 32. The governor may, in like manner, limit or prohibit, for not more than five years at any one time, fishing in the navigable tidal waters and in the unnavigable waters of specified streams, except in such portions as may be enclosed according to provisions of section twenty-seven; and whoever fishes in streams where the right of fishing is thus limited or prohibited shall forfeit ten dollars for the first offence and fifty dollars for each subsequent offence.

Owners of unnavigable tidal streams to control fishery thereof.
1871, 281, § 2.
P. S. 91, § 31.
1890, 231.
119 Mass. 526.

SECTION 33. The riparian proprietor on an unnavigable tidal stream, enclosed or unenclosed, in which fish are lawfully cultivated or maintained shall have the control of the fishery thereof within his own premises and opposite thereto to the middle of the stream, and a riparian proprietor at the mouth of such stream shall also have control of the fishing thereof beyond and around the mouth of the stream so far as the tide ebbs, if it does not ebb more than eighty rods; and whoever fishes within these limits without permission of such owner shall forfeit not less than one nor more than twenty dollars for the first offence and not less than five nor more than fifty dollars for each subsequent offence.

HERRING AND ALEWIVES.

Towns may open ditches, etc., to create herring fisheries.
1866, 187, § 3.
P. S. 91, § 63.
167 Mass. 122.

SECTION 34. A city or town may open ditches, sluiceways or canals into any pond within its limits for the introduction and propagation of herring or alewives, and for the creation of fisheries for the same; and land for opening such ditches, sluiceways or canals within such city or town may be taken according to the provisions of law for the taking of land for highways.

—shall own such fisheries.
1866, 187, § 4.
P. S. 91, § 64.

SECTION 35. A city or town which creates such fishery shall own it, may make regulations concerning it and may lease it for not more than five years, upon such terms as may be agreed upon. A town may lease for a like period, and upon like terms, any fishery owned by it or any public fishery regulated and controlled by it.

Penalty for fishing in such fisheries without permission.

SECTION 36. Whoever takes, kills or hauls on shore any herring or alewives in a fishery created by a city or town, without its

permission or that of its lessees, or in a fishery created by a corporation, without the permission of such corporation, shall forfeit not less than five nor more than fifty dollars. Prosecutions under the provisions of this section shall be commenced within thirty days after the commission of the offence. 1866, 187, §§ 5-7. P. S. 91, §§ 65, 66.

SECTION 37. The provisions of the three preceding sections shall not impair the rights of any person under any law passed before the twenty-fifth day of April in the year eighteen hundred and sixty-six or under any contract then existing, or authorize a city or town to enter upon or build canals or sluiceways into a pond which is the private property of a person or corporation. Rights under contracts, etc., not affected. 1866, 187, § 8. P. S. 91, § 67.

SHAD AND ALEWIVES.

SECTION 38. Whoever takes or aids in taking from the Connecticut river or its tributaries any shad or alewives between the first day of July and the fifteenth day of March shall forfeit one hundred dollars for each offence. Shad and alewife fishing in Connecticut river. 1812, 103, § 1.

1835, 137. 1852, 122. 1868, 130, § 1. 1869, 76, § 1. 1870, 369. 1875, 39. 1881, 47, § 1. P. S. 91, § 32.

SECTION 39. Whoever, from the first day of March to the thirty-first day of May, takes alewives above tidal waters in the Merrimac river or any tributary thereof between sunrise on Friday morning and sunrise on Monday morning shall, except as provided in section forty-one, forfeit for each alewife so taken not less than one nor more than five dollars. Alewife fishing in Merrimac river. 1754-5, 31, § 7. 1789, 51, § 1. 1811, 175, § 1. 1819, 20, § 3. 1832, 56, § 2. 1874, 144, § 1. 1881, 104, § 1. P. S. 91, § 33.

SECTION 40. No person shall take shad in the Merrimac river in any manner between the first day of July and the first day of April. Shad fishing in Merrimac river.

1754-5, 31, § 7. 1789, 51, § 1. 1811, 175, § 1. 1819, 20, § 3. 1832, 56, § 2. 1874, 144, § 1. 1881, 104, § 1. P. S. 91, § 33. 1895, 88, § 2.

SECTION 41. Whoever takes shad or alewives in that part of the Merrimac river where the tide ebbs and flows, by the use of a gill net of any description, or of a sweep seine having a mesh which stretches less than one and three-quarters inches, shall forfeit twenty-five dollars for each offence. Shad and alewife fishing in Merrimac river. 1893, 201. 1895, 88, § 1. 1897, 110.

SECTION 42. Whoever takes shad or alewives, except in the Connecticut, Taunton Great, Nemasket and Merrimac rivers and their tributaries, in any other manner than by naturally or artificially baited hook and hand line, on Sunday, Tuesday or Thursday, and whoever, between the fifteenth day of June and the first day of March, takes shad, except in the Connecticut and Merrimac rivers, or alewives, shall forfeit for each shad five dollars, and for each alewife twenty-five cents. Penalty for taking shad, etc., except. 1754-5, 31, § 1. 1764-5, 34, §§ 1, 10, 11. 1869, 384, §§ 24, 29. 1871, 293. P. S. 91, § 55. 1895, 88, § 2.

SECTION 43. Lessees from the commissioners on fisheries and game of any body of water in the county of Dukes County and all other persons having the right to take alewives in any other waters in said county may at any time take alewives from said Taking alewives from leased ponds in Dukes County. 1882, 102. 1884, 245, § 1.

waters and from the ditches connecting them with each other and with the ocean. Whoever, other than said lessees or any other person duly authorized, takes any fish, except eels, from any of said waters or ditches without the previous permission in writing of said lessees or of said duly authorized person shall forfeit one dollar for each fish so taken.

REGULATION OF FISHING NEAR FISHWAYS AND WITH NETS, ETC.

Fishing near fishways in Connecticut river forbidden.
1874, 144, § 3.
1878, 224, §§ 1, 2.
P. S. 91, § 34.

SECTION 44. Whoever takes any fish within two hundred yards of any fishway on the Connecticut river or its tributaries, or trespasses within the limits of such fishway, shall forfeit fifty dollars for each offence. Whoever takes any fish beyond two hundred and within four hundred yards of any such fishway, in any other manner than by artificially or naturally baited hook and line, shall forfeit twenty-five dollars for each fish so taken.

—in Merrimac river forbidden, where.
1867, 289, § 2.
P. S. 91, § 35.

SECTION 45. Whoever takes any fish within four hundred yards of any fishway on the Merrimac river, or trespasses within the limits of such fishway, shall forfeit fifty dollars for each offence.

—with nets in Merrimac river forbidden, when.
1764–5, 24, §§ 1, 3.
1765–6, 30, § 1.

SECTION 46. Whoever, from the last day of May to the first day of March, uses a net of any description in the waters of the Merrimac river or any tributary thereof shall forfeit twenty-five dollars for each offence. 1766–7, 13, § 1. 1792, 78. 1812, 84. 1817, 16, § 2. 1819, 20, §§ 3, 6. 1881, 104, § 2. P. S. 91, § 36.

—with gill nets in Connecticut or Merrimac rivers forbidden.

SECTION 47. Whoever uses a gill net of any description in the waters of the Connecticut or Merrimac river or any tributary thereof shall forfeit twenty-five dollars for each offence. 1874, 144, § 4. P. S. 91, § 37.

Use of seines in Mill and Plum Island rivers.
1887, 105, §§ 1, 3.
1900, 159.

SECTION 48. Whoever, in taking herring or mackerel, except with a dip net, in Mill river and its tributaries in the city of Gloucester or the towns of Essex and Ipswich, or in Plum Island river and its tributaries in the towns of Ipswich, Rowley or Newbury, uses a net or seine having a mesh of less than one and three-quarters inches shall be punished by a fine of twenty-five dollars for each offence.

Size of meshes of sweep seines.
1864, 62.
1869, 384, § 21.
1872, 235.
1878, 172, § 1.
P. S. 91, § 39.

SECTION 49. Whoever uses in the Connecticut, Westfield, Deerfield, Miller's, Merrimac, Nashua or Housatonic rivers, or any tributary thereof, a sweep seine having a mesh which stretches less than five inches shall forfeit twenty-five dollars for the first offence, and fifty dollars for each subsequent offence.

Seine fishing in Merrimac river.
1882, 166, § 1.
1884, 317.

SECTION 50. The penalties prescribed by this chapter for unlawful fishing in the Merrimac river shall not apply to any person who draws a net or seine with a mesh not less than two and one-quarter inches after the twentieth day of June in each year at any point in said river below the Essex-Merrimac bridge, unless he takes salmon or shad, nor if, while thus lawfully fishing, he takes such

fish and immediately returns it alive to the waters from which it was taken.

SECTION 51. Whoever, between the fifteenth day of March and the first day of July, sets or uses, or aids in setting or using, in the Connecticut river, a pound, weir or set net the meshes whereof are less than two inches in extent, or between sunset on Saturday and sunrise on Monday sets or draws, or aids in setting or drawing, a seine for the purpose of taking fish in said river, and any person owning or controlling in whole or in part a pound, weir or set net of any description, placed in said river, who, between sunset and sunrise as aforesaid, fails to keep the same open and free for the passage of fish in a manner satisfactory to the commissioners on fisheries and game shall forfeit four hundred dollars for each offence; and, in addition, shall forfeit such pounds, weirs and set nets.

Weir and seine fishing in Connecticut river.
1864, 62.
1869, 76, § 3.
1881, 47, § 2.
P. S. 91, § 40.

SECTION 52. Whoever uses a sweep seine or combination of sweep seines in such a manner as at any moment to close or seriously obstruct more than two-thirds of the width of a stream at the place where it is used, or delays or stops in paying out or hauling a sweep seine, or hauls a sweep seine within one-half mile of a point where such seine has been hauled within an hour, shall forfeit twenty-five dollars for the first offence, and fifty dollars for each subsequent offence; but the provisions of this section shall not apply to seines used in the smelt fisheries, or to the fisheries for shad or alewives in the Taunton Great river, or to the fisheries in North river in the county of Plymouth.

Fishing with sweep seines.
1869, 384, § 22.
1872, 229, § 2.
P. S. 91, § 41.
1884, 199, § 2.

SECTION 53. Whoever sets a seine or combination of seines over three hundred and eighty-five feet in length, or casts a mesh net over three hundred and fifty feet in length, in the North river in the county of Plymouth shall for each offence be punished by a fine not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than one nor more than three months.

Seines in North river.
1852, 66.
1853, 350, §§ 3, 4.
1872, 229, § 2.
1876, 103.
1877, 109.
1881, 44, §§ 4, 6.
1883, 76.
1884, 199, § 1.

SECTION 54. The mayor and aldermen of cities and the selectmen of towns bordering on the Connecticut or Merrimac river shall appoint and fix the compensation of one or more fish wardens within their respective cities and towns, who shall, respectively, make complaint of all offences under the provisions of sections thirty-eight, forty-four, forty-five and fifty-one.

Fish wardens in certain towns.
1764-5, 24, § 5.
1789, 51, § 6.
1811, 175, § 2.
1867, 289, § 4.
1868, 130, § 4.
1869, 76, § 4.
P. S. 91, § 42.

SECTION 55. A city or town whose mayor and aldermen or selectmen neglect to appoint and fix the compensation of such fish wardens shall forfeit not less than one hundred nor more than five hundred dollars.

Penalty for neglect to appoint fish wardens.
1874, 144, § 6.
P. S. 91, § 43.

BLUEFISH.

SECTION 56. Whoever takes any bluefish in the waters of Wellfleet bay in the town of Wellfleet with nets or seines, north and east of Smalley's bar inside of a line drawn from Smalley's bar buoy east-southeast to the eastern shore and west-northwest to the western shore, shall forfeit one dollar for each bluefish so taken or be punished by a fine of not more than one hundred dollars.

Bluefish, taking of, regulated.
1891, 135.

SALMON AND TROUT.

Penalty for taking salmon except with hook and line. 1880, 68, §§ 1, 2. P. S. 91, §§ 45, 46.

SECTION 57. Whoever takes a salmon, otherwise than with naturally or artificially baited hook and hand line, shall be punished by a fine of not less than fifty nor more than two hundred dollars for each fish so taken; but a person who so catches a salmon when lawfully fishing and immediately returns it alive to the waters from which it was taken shall not be subject to such penalty.

— for taking salmon between certain dates. 1869, 384, § 27. P. S. 91, § 47.

SECTION 58. Whoever takes a salmon between the first day of August and the first day of May, and whoever at any time buys, sells or has in his possession a salmon taken in this commonwealth between said dates, shall forfeit not less than ten nor more than fifty dollars for each offence; and whoever at any time buys, sells or has in his possession a young salmon less than one foot in length shall forfeit five dollars for every such salmon.

— for obstructing stream with salmon pot. 1869, 384, § 23. P. S. 91, § 52.

SECTION 59. Whoever at any time obstructs with a salmon pot more than one-half of a waterfall, channel or rapid or sets, uses, or maintains a salmon pot the diameter of which is more than two feet, or who, when the taking of salmon is forbidden by law, sets, uses or maintains any salmon pot whatever, shall forfeit ten dollars for the first offence and twenty dollars for each subsequent offence.

Protection of salmon fry. 1894, 113.

SECTION 60. The commissioners on fisheries and game shall, during April, May and June, for the better protection of salmon fry in the Merrimac river, cause wire screens to be erected and maintained at the entrance of the canals in Lowell and Lawrence at the expense of the companies owning and operating said canals.

Guardian liable, when. R. S. 55, §§ 3, 4. G. S. 83, §§ 2, 3. P. S. 91, §§ 49, 50.

SECTION 61. If a minor takes a trout in any other manner than by hook and line in a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, his guardian shall forfeit one dollar for each trout so taken; but all prosecutions under the provisions of this section shall be commenced within thirty days after the commission of the offence.

Penalty for taking trout, when. R. S. 55, § 2. G. S. 83, § 2. 1857, 30. 1859, 106. 1862, 161. 1866, 249, § 1. 1869, 384, § 28. 1874, 186, § 1. P. S. 91, § 51. 1884, 171, § 1. 1888, 276. 1890, 193. 1891, 138.

SECTION 62. Whoever takes a trout, land locked salmon or lake trout between the first day of September and the first day of April, or, in the counties of Berkshire, Franklin, Hampden and Hampshire, between the first day of August and the first day of April, shall forfeit not less than ten nor more than twenty-five dollars for each offence. Whoever buys such fish taken between said dates in this commonwealth or takes such fish with a net or salmon pot at any season of the year shall forfeit not less than five nor more than twenty dollars for each fish so taken. 1901, 142. 164 Mass. 477.

Close season for trout, etc. 1866, 249, §§ 1, 3. 1869, 384, § 28. 1874, 186. 1876, 221, § 1. 1880, 86. P. S. 91, § 53. 1884, 171, § 1. 1888, 276. 1890, 193. 1891, 138. 1901, 142. 128 Mass. 410. 160 Mass. 157.

SECTION 63. Whoever, except as provided in section sixty-six, sells or offers or exposes for sale, or has in his possession, a trout, land locked salmon or lake trout, except alive, between the first day of September and the first day of April, or in the counties of Berkshire, Franklin, Hampden and Hampshire, between the first day of August and the first day of April, shall forfeit not less than ten nor more than twenty-five dollars for each offence; and the possession of any such fish between said dates shall be prima facie evidence to convict.

SECTION 64. Whoever at any time takes, catches or has in possession, or whoever sells or offers or exposes for sale in this commonwealth, trout less than six inches in length shall forfeit ten dollars for each such trout taken, caught, held in possession, sold or offered or exposed for sale; but the provisions of this section shall not affect the provisions of section twenty-eight, nor shall they apply to a person who is engaged in breeding or rearing trout or to any person who, upon taking such trout, immediately returns it alive to the water from which it was taken.

Sale of small trout forbidden. 1892, 252. 1901, 121.

SECTION 65. No person, corporation or association shall be provided by the commonwealth with trout or trout spawn to stock waters owned or leased by him or them or under his or their control unless he or they first agree in writing with the commissioners on fisheries and game that such waters so stocked shall be free for the public to fish in during the season in which the taking of trout is permitted by law.

Trout spawn, how furnished. 1893, 59.

SECTION 66. Trout not less than nine inches in length, which are hatched from the egg in the house of the owner and grown in pools of said owner, may be sold for food during February and March.

Sale of trout artificially reared. 1895, 277.

PICKEREL.

SECTION 67. Whoever takes from the waters of the county of Berkshire a pickerel less than ten inches in length, or sells or offers for sale, or has in his possession with intent to sell in said county any such pickerel, shall forfeit one dollar for each pickerel so taken, sold or offered or exposed for sale; and in prosecutions under the provisions of this section the possession of pickerel less than ten inches in length shall be prima facie evidence to convict.

Pickerel, taking in Berkshire regulated. 1895, 199.

SECTION 68. Whoever takes or catches pickerel in a river, stream or pond, in a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, in any other manner than by naturally or artificially baited hook and hand line shall forfeit one dollar for every pickerel so taken, if proceedings therefor are commenced within sixty days after the time of committing the offence.

—taking of, regulated generally. 1822, 21. 1824, 127. R. S. 55, § 2. G. S. 83, § 2. P. S. 91, § 48. 1888, 331.

BLACK BASS.

SECTION 69. Whoever takes a black bass between the first day of December and the first day of June, or at any time except with naturally or artificially baited hook and hand line, or buys, sells or has in possession any such fish taken in this commonwealth between said dates, or otherwise than is allowed in this chapter, shall forfeit not less than two nor more than twenty dollars for each offence; but this limitation of time shall not be applicable to the Connecticut river or its tributaries.

Penalty for taking black bass, except. 1862, 59. 1866, 249, § 2. 1869, 384, § 30. 1871, 113. 1878, 224, § 3. P. S. 91, § 56. 1893, 80.

SECTION 70. Whoever takes or sells or offers for sale or has in his possession with intent to sell a black bass less than eight inches in length shall forfeit ten dollars for each fish so taken, sold or offered or exposed for sale; and in prosecutions under the provisions of this section the possession of a black bass less than eight inches in length shall be prima facie evidence to convict.

Small black bass, taking, forbidden. 1896, 229.

SMELTS.

Penalty for selling, etc., smelts between certain dates.
1874, 153, §§ 1, 2.
P. S. 91, § 57.
1887, 105, § 2.
1890, 30.
108 Mass. 452.
128 Mass. 410.

SECTION 71. Whoever, between the fifteenth day of March and the first day of June, sells or offers or exposes for sale or has in his possession a smelt taken between said dates in this commonwealth, shall forfeit one dollar for every such smelt; and the possession of a smelt between said dates shall be prima facie evidence to convict.

— for taking smelts except with hook and line.
1868, 179, § 1.
1869, 64; 384, § 31.
1872, 290.
1873, 211.
1874, 153, § 2.
P. S. 91, § 58.

SECTION 72. Whoever takes a smelt in any other manner than by naturally or artificially baited hook and hand line shall, except as provided in section seventy-six, forfeit one dollar for each smelt so taken: and in all prosecutions under the provisions of this section the burden of proof shall be upon the defendant to show that smelts taken by him were legally caught. 151 Mass. 60. 153 Mass. 396.

Prohibition not to extend to certain counties, etc.
1869, 75.
1873, 364.
1874, 153, § 2.

SECTION 73. The provisions of the two preceding sections shall not apply to smelts taken in a seine or net in the counties of Bristol, Barnstable, Nantucket or Dukes County during the time and in the manner in which fishing is allowed for perch, herring or alewives.
P. S. 91, § 59. 1891, 128.

Use of net, seine, etc., for catching smelts in Boston harbor, etc., prohibited.
1818, 109.
1823, 41, § 1.
1894, 189, § 1.

SECTION 74. No person shall set, draw, use or attempt to set, draw or use any net, seine, trap or device for catching smelts, other than a naturally or artificially baited hook, in the waters of Boston harbor, Hingham harbor, Weir river, Weymouth Fore river, Weymouth Back river, Neponset river, Charles river, Mystic river, or in any cove, bay, inlet or tributary thereof; but the provisions of this section shall not prohibit the use of traps for catching lobsters.

Possession of net, etc., prima facie evidence.
1894, 189, § 2.

SECTION 75. Possession of any net, seine, trap or device for catching fish, other than a naturally or artificially baited hook, in or upon said harbors, rivers or tributaries, or on the banks of the same, if adapted to the present catching of smelts and apparently intended for that purpose, shall be deemed prima facie evidence of a violation of the provisions of the preceding section, and the possession of any fresh smelts, not apparently caught by the use of a hook, in or upon said harbors, rivers or tributaries, or on the banks of the same, after sunset or under other circumstances of suspicion, shall be deemed prima facie evidence that said smelts were caught contrary to the provisions of the preceding section by the person in whose possession they are found.

Penalties.
1894, 189, § 3.

SECTION 76. Whoever violates the provisions of section seventy-four or receives smelts knowing or having reasonable cause to believe that the same have been taken contrary to the provisions of said section shall, for a first offence, be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not less than six nor more than twelve months, or by both such fine and imprisonment, and, for a second offence, by both said fine and imprisonment.

Forfeitures.
1894, 189, § 4.
1897, 288, § 1.

SECTION 77. Any commissioner on fisheries and game, deputy commissioner, member of the district police, sheriff, deputy sheriff,

police officer or constable, within his jurisdiction, may search for and seize, without warrant, any smelts which he has reason to suspect were taken contrary to the provisions of section seventy-four, and the net, seine, trap or other device and the vessel, boat, craft or other apparatus used in connection with such receiving, or other violation of said section, and the cask, barrel or other vessel or wrapper containing said smelts. Said officer may libel said property according to law, or, at his discretion, sell the same or any part thereof at private sale or by public auction, and libel the net proceeds of such sale according to law, in the same manner and with the same effect as if such proceeds were the property itself.

FORFEITURE OF FISH, BOATS, ETC.

Forfeiture of boat and apparatus, when. 1871, 281, §§ 1, 5. 1874, 144, § 5. P. S. 91, §§ 31, 38, 61. 1884, 245, § 2; 318, § 1. 1890, 231. 1894, 189, § 3.

SECTION 78. Whoever takes any fish in violation of the provisions of sections twenty-six, twenty-nine, thirty-two, thirty-three, thirty-nine, forty, forty-two, forty-three, forty-four, forty-seven, fifty-eight, sixty-two, sixty-eight, sixty-nine, seventy-two or one hundred and thirty-two, or whoever violates the provisions of sections twenty-six, thirty-three or seventy-six shall, in addition to the penalties therein provided, forfeit the boat and apparatus used.

—of fish and apparatus. 1869, 384, §§ 15, 22, 23. 1878, 172, § 1.

SECTION 79. Whoever violates the provisions of sections twenty-six, thirty-two, forty-one, forty-eight, forty-nine, fifty-two and fifty-nine shall, in addition to the penalties therein provided, forfeit the fish taken and the apparatus used.

P. S. 91, §§ 30, 39, 41, 52. 1884, 318, § 1. 1897, 110. 1900, 159, § 2.

Keepers of fish markets, etc., to give information of unlawful taking. Penalty. 1869, 384, § 25. P. S. 91, § 62.

SECTION 80. Every superintendent, clerk or other person who has charge of a market, provision store or other place in which fish are sold, and who has reasonable cause to believe that any fish taken in violation of law has been offered for sale on such premises, shall immediately give information thereof to a constable or trial justice in the city or town in which said premises are situated; and for each neglect so to do shall be punished by a fine of not less than five nor more than fifty dollars.

SHINERS AND STURGEON.

Shiners, taking in Merrimac river permitted. 1883, 31.

SECTION 81. During November and December any person may, for the purpose of taking shiners for bait, draw a net or seine at any point in the Merrimac river except within four hundred yards of any fishway; and if any other fish so caught are immediately returned alive to the waters from which they were taken, the penalties prescribed in sections forty-six, forty-seven, forty-nine, seventy-eight and seventy-nine shall not apply to the taking of such fish.

Sturgeon fishing in Merrimac river. 1882, 166, § 2.

SECTION 82. A person who uses a net or seine having a mesh which stretches at least twelve inches shall not incur a penalty for taking sturgeon in the tidal waters of the Merrimac river.

EELS, CLAMS, QUAHAUGS AND SCALLOPS.

Scallops, taking of, regulated. 1885, 220, § 4. 1887, 96, § 1.

SECTION 83. Whoever, between the first day of April and the first day of October, takes scallops from the flats or waters of the commonwealth, or buys, sells or has in his possession any scallops,

1888, 238.
1896, 268, § 1.
1901, 237.

shall be punished by a fine of not less than twenty nor more than fifty dollars for each offence; but the provisions of this section shall not apply to the taking of scallops for bait in the waters adjacent to the town of Nantucket from the first day of April to the fifteenth day of May, inclusive.

Seed scallops, taking prohibited.
1887, 96, § 2.
1896, 268, § 2.

SECTION 84. Whoever takes seed scallops from the flats or waters of the commonwealth shall be punished by a fine of not less than twenty nor more than fifty dollars for each offence; but such penalty shall not be incurred by any person taking such scallops who returns them alive to the flats or waters from which they were taken.

Town officers may regulate fishing.
1880, 200.
1881, 103.
P. S. 91, §§ 68, 69.
1889, 391.
1895, 282, § 3.
155 Mass. 10.
174 Mass. 29.

SECTION 85. The mayor and aldermen of cities and the selectmen of towns, if so instructed by their cities and towns, may, except as provided in the two preceding sections, control, regulate or prohibit the taking of eels, clams, quahaugs and scallops within the same; and may grant permits prescribing the times and methods of taking eels and such shell fish within such cities and towns and make such other regulations in regard to said fisheries as they may deem expedient. But an inhabitant of the commonwealth, without such permit, may take eels and the shell fish above named for his own family use from the waters of his own or any other city or town, and may take from the waters of his own city or town any of such shell fish for bait, not exceeding three bushels, including shells, in any one day, subject to the general rules of the mayor and aldermen and selectmen, respectively, as to the times and methods of taking such fish. The provisions of this section shall not authorize the taking of fish in violation of the provisions of sections forty-four and forty-five. Whoever takes any eels or any of said shell fish without such permit, and in violation of the provisions of this section, shall forfeit not less than three nor more than fifty dollars.

LOBSTERS, TAUTOG AND OTHER FISH.

Penalty for taking female lobsters.
1881, 270, §§ 1, 2.
P. S. 91, §§ 81, 82.
1882, 98.
1889, 109, § 1.
1901, 193.
155 Mass. 278.

SECTION 86. Whoever at any time catches or takes or has in his possession with intent to sell, or sells, any female lobster bearing eggs shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not less than one nor more than three months for each offence; but a person who catches or takes any such lobster and immediately returns it alive to the waters from which it was taken shall not be subject to such penalty. The provisions of this section shall not apply to lobsters spawning in lobster cars if they are immediately returned alive to the waters from which they were taken. Exposure for sale or possession otherwise than as herein provided shall be prima facie evidence of an intent to sell.

Town officers to enforce preceding section.
1881, 270, § 3.
P. S. 91, § 83.
1884, 212, § 5.

SECTION 87. The mayor and aldermen of cities, the selectmen of towns, police officers and constables shall cause the provisions of the preceding section to be enforced in their respective cities and towns.

Penalty for selling, etc., small lobsters.

SECTION 88. Whoever sells or offers for sale or has in his possession an uncooked lobster less than ten and one-half inches in

length, or a cooked lobster less than ten and one-quarter inches in length, measuring from the extremity of the bone protruding from the head to the end of the bone of the middle flipper of the tail of the lobster, extended on its back its natural length, shall forfeit not more than five dollars for every such lobster, one-half to the use of the city or town in which the offence is committed and one-half to the commonwealth; and in all prosecutions under the provisions of this section any mutilation of a lobster, cooked or uncooked, which affects its measurement shall be prima facie evidence that the lobster is less than the required length and the possession of any lobster, cooked or uncooked, which is not of the required length shall be prima facie evidence to convict.

1874, 110, § 1. 1877, 75. P. S. 91, § 84. 1884, 212, §§ 1, 2. 1887, 314, § 1. 1900, 428. 143 Mass. 560. 155 Mass. 278. 165 Mass. 396. 170 Mass. 197.

SECTION 89. Whoever, before a lobster is cooked, mutilates it by severing the tail from the body, or has such tail in possession, shall be punished by a fine of five dollars for each offence; and in all prosecutions under the provisions of this section the possession, by any person, of the tail of any uncooked lobster so severed from the body shall be prima facie evidence to convict.

Penalty for selling, etc., small lobsters. 1890, 293. 1891, 122.

SECTION 90. The governor, upon the written request of the commissioners on fisheries and game or one of them, may detail one or more of the district police from any district or town to enforce the provisions of section eighty-eight.

District police to enforce. 1884, 212, § 4.

SECTION 91. For the purpose of enforcing the provisions of section eighty-eight, any one of the commissioners on fisheries and game or their deputy or any member of the district police may search in suspected places for, seize and remove lobsters which have been unlawfully taken, held or offered for sale.

Right of search. 1885, 256. 1897, 288, § 1.

SECTION 92. Whoever, not having been an inhabitant of this commonwealth for one year, sets or keeps or causes to be set or kept in the waters of this commonwealth any pot, net or trap for the catching of lobsters shall forfeit twenty dollars for each offence.

Taking of lobsters by non-residents. 1892, 403. 1893, 183. 1900, 230.

SECTION 93. The commissioners on fisheries and game may occupy and use any small estuaries or creeks within the commonwealth, not exceeding six, for the scientific investigation of the habits, propagation and distribution of lobsters, if such occupation and use does not impair the private rights of any person or materially obstruct any navigable waters. Notice of such occupation shall be conspicuously posted and maintained by said commissioners at the nearest points to said estuaries and creeks, and shall be recorded in the registry of deeds in the county in which they are situated.

Investigation of habits of lobsters, etc. 1889, 109, § 4.

SECTION 94. Whoever, after the posting and recording of such notice, catches or takes any lobster from any estuary or creek so occupied as aforesaid shall be punished as provided in section eighty-six.

Penalty. 1889, 109, § 5.

SECTION 95. No person living without this commonwealth shall take any lobsters, tautog, bass or other fish within the harbors, streams, or waters of Fairhaven, New Bedford, Dartmouth or

Prohibition of taking lobsters, etc., in certain waters. 1821, 97, § 1.

R. S. 55, § 5.
G. S. 83, § 4.
P. S. 91, § 86.

Westport for the purpose of carrying them thence in vessels or smacks of any size whatever owned without this commonwealth, nor in any of more than fifteen tons burden owned within this commonwealth, under a penalty of ten dollars for each offence and a forfeiture of all fish and lobsters so taken.

Boundaries defined.
1821, 97, § 2.
R. S. 55, § 6.
G. S. 83, § 5.
P. S. 91, § 87.

SECTION 96. For the purposes of the preceding section, the waters and shores of the places therein mentioned shall be deemed to extend from the line of the state of Rhode Island to the line of the county of Plymouth, and to include all the waters, islands and rocks lying within one mile of the main land.

Penalty if certain statutes have been adopted.
1839, 85, §§ 1, 3.
G. S. 83, § 6.
P. S. 91, § 88.

SECTION 97. If, within the harbors, streams, or waters of any place on the sea coast which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, a person who lives without the commonwealth takes, for the purpose of carrying thence, any lobsters, tautog, bass, bluefish or scuppaug, or if a person who lives in this commonwealth takes and carries away from such place any such fish or lobsters in vessels or smacks of more than fifteen tons burden, he shall forfeit for each offence not more than twenty dollars, and all the fish and lobsters so taken.

Prohibition of taking lobsters in waters of Provincetown.
1821, 102, § 1.
R. S. 55, §§ 7–9.
G. S. 83, §§ 7–9.
P. S. 91, §§ 89–91.

SECTION 98. No person shall take lobsters within the waters and shores of the town of Provincetown for the purpose of carrying them from said waters in a vessel or smack of more than fifteen tons burden, or for the purpose of putting them on board of such vessel or smack to be transported to any place, unless a permit is first obtained therefor from the selectmen of said town, who may grant the same for such amount, to be paid to the use of the town, as they shall deem proper. Whoever violates the provisions of this section shall forfeit ten dollars for each offence; and a further amount of ten dollars for every hundred lobsters over the first hundred taken or found on board of any such vessel or smack, and in that proportion for any smaller number. For the purposes of this section, the waters and shores of Provincetown shall be deemed to be as follows: beginning at Race Point, one-half mile from the shore, and thence running by said shore to the end of Long Point which forms the harbor of Provincetown, and from the end of Long Point one-half mile and including the harbor within the town of Provincetown.

Penalty for taking too many lobsters, etc., in Buzzard's bay.
1856, 175, §§ 2–4.
G. S. 83, § 10.
P. S. 91, § 92.

SECTION 99. Whoever, between the first day of April and the first day of July, inclusive, takes more than one hundred pounds a week of lobsters, tautog, bass or scuppaug in the bays, harbors, ponds, rivers or creeks of the waters of Buzzard's bay, within one mile from the shore and within the jurisdiction of the towns of Bourne and Wareham, shall forfeit not more than fifty dollars.

OYSTERS AND OTHER SHELL FISH.

– for unlawfully destroying oysters.
1764–5, 25, § 1.
1771–2, 13, §§ 1, 2.
1795, 71, § 1.

SECTION 100. Whoever takes oysters from their beds, or destroys them or wilfully obstructs their growth therein, except as is provided in the following sections, shall forfeit two dollars for every bushel of oysters, including the shells, so taken or destroyed.

R. S. 55, § 11. G. S. 83, § 11. P. S. 91, § 93. 136 Mass. 456.

SECTION 101. The mayor and aldermen of a city or selectmen of a town in which there are oyster beds may grant a permit in writing to any person to take oysters from their beds at such times, in such quantities and for such uses as they shall express in their permit; but every inhabitant of such city or town, except the town of Yarmouth, may, without such permit, take oysters from the beds therein for the use of his family, from the first day of September to the first day of June, not exceeding in any week two bushels, including the shells.

Selectmen may give permits to take oysters. 1764–5, 25, §§ 1, 2. 1795, 71, § 1. R. S. 55, § 12. G. S. 83, § 12. 1879, 105. P. S. 91, § 94. 1892, 74. 7 Met. 446.

SECTION 102. Whoever takes any other shell fish from their beds, or destroys them or wilfully obstructs their growth therein, except as is hereinafter provided, shall forfeit one dollar for every bushel of such other shell fish, including the shells. But the mayor and aldermen of a city or selectmen of a town may at any time give a permit in writing to any person to take such other shell fish from their beds therein, at such times, in such quantities and for such uses as they shall express in their permit; but every inhabitant of each of said places may, without such permit, take such other shell fish from the beds therein for the use of his family.

7 Met. 446. 13 Allen, 541. 155 Mass. 10.

Penalty for taking other shell fish, except, etc. 1771–2, 13, § 3. 1795, 71, § 2. 1798, 14, § 1. 1799, 19, § 1. 1808, 28. 1830, 2. R. S. 55, § 13. 1838, 110, 113. 1839, 84. 1840, 9. 1842, 10. G. S. 83, § 13. P. S. 91, § 95.

SECTION 103. The provisions of the three preceding sections shall not deprive native Indians of the privilege of digging shell fish for their own consumption, or prevent a fisherman, who is an inhabitant of this commonwealth, from taking shell fish which he may want for bait, not exceeding at any one time seven bushels, including the shells.

13 Allen, 541.

Indians not within prohibition. 1795, 71, § 5. 1798, 14, § 2. R. S. 55, § 15. G. S. 83, § 15. 1867, 70. 1872, 46, § 2. P. S. 91, § 96.

SECTION 104. The mayor and aldermen of a city or selectmen of a town may, by writing under their hands, grant a license for a term not exceeding ten years to any inhabitant thereof to plant, grow and dig oysters at all times of the year, or to plant oyster shells for the purpose of catching oyster seed, upon and in any waters, flats and creeks therein, at any place where there is no natural oyster bed; not, however, impairing the private rights of any person, nor materially obstructing any navigable waters.

Town officers may grant licenses. 1848, 152, § 1. 1869, 172, § 8. G. S. 83, § 16. P. S. 91, § 97. 1884, 284. 1895, 282, § 1. 158 Mass. 121.

SECTION 105. Such license shall describe by metes and bounds the waters, flats and creeks so appropriated and shall be recorded by the city or town clerk before it shall have any force, and the licensee shall pay to the mayor and aldermen or selectmen, for their use, two dollars, and to the clerk fifty cents. The shore line of such licensed premises shall be the line of mean low water for the planting and growing of oysters, and the line of high water for the planting of oyster shells, but the provisions of this section shall not authorize the placing of such shells upon the land of a riparian owner between high and low water mark without his written consent.

Boundaries to be defined. 1848, 152, §§ 2, 5. G. S. 83, § 17. P. S. 91, § 98. 1884, 284, § 1. 1895, 282, §§ 1, 2. 132 Mass. 297.

SECTION 106. Such license shall not be granted until after a public hearing, due notice of which shall have been posted in three or more public places in the city or town in which the premises are situated at least seven days before the time fixed for such hearing.

Hearing and notice. 1885, 220, § 1.

Transfer of license.
1886, 299, § 1.

SECTION 107. Such license shall be granted, assigned or transferred only to inhabitants of the city or town in which the licensed premises are situated, and shall not be assigned or transferred without the written consent of the mayor and aldermen of such city or the selectmen of such town.

Rights of persons licensed.
1848, 152, §§ 3, 4.
G. S. 83, § 18.
P. S. 91, § 99.
1884, 284, § 1.
1895, 282, § 1.

SECTION 108. The licensee, his heirs and assigns shall, for the purposes aforesaid, have the exclusive use of the waters, flats and creeks described in the license during the time therein specified; and may, in an action of tort, recover treble damages of any person who, without his or their consent, digs or takes oysters or oyster shells from such waters, flats or creeks during the continuance of the license; and whoever digs or takes oysters or oyster shells therefrom without such consent shall also forfeit twenty dollars for each offence.

Revocation of license.
1885, 220, § 2.
1895, 282, § 1.

SECTION 109. If the licensee fails for two years after the license has been granted to plant and grow oysters or to plant oyster shells in the waters, flats or creeks described in the license, it shall be revoked by the officers who granted it and the revocation shall be recorded by the city or town clerk.

Hours for taking.
1878, 179, § 1.
P. S. 91, § 100.
1884, 284, § 1.
1886, 299, §§ 2, 3.
1895, 282, § 1.

SECTION 110. No person shall dig, take or carry away any oysters or oyster shells between one hour after sunset and one hour before sunrise, by any method whatever, from any waters, flats or creeks for which a license has been granted under the provisions of section one hundred and four. A licensee who violates the provisions of this chapter relative to the planting and growing of oysters or the planting of oyster shells, shall, in addition to the penalties hereinafter provided, forfeit his license and the oysters remaining on the licensed premises.

Penalty for taking oysters from licensed flats without permission.
1878, 179, § 2.
P. S. 91, § 101.
1884, 284, § 1.
1895, 282, § 1.
136 Mass. 456.

SECTION 111. Whoever violates the provisions of the preceding section, or whoever, without the consent of the licensee, digs or takes any oysters or oyster shells from any waters, flats or creeks described in any license granted under the provisions of section one hundred and four, during the continuance of such license, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment.

— for using dredge, etc., upon private oyster beds.
1885, 220, § 5.

SECTION 112. Whoever works a dredge, oyster tongs or rakes, or any other implement for the taking of shell fish of any description, upon any oyster grounds or beds, other than public grounds or beds, without the consent of the licensee, lessee or owner thereof, or whoever, while upon or sailing over any such grounds or beds, casts, hauls, or has overboard any such dredge, tongs, rake or other implement for the taking of shell fish of any description, under any pretence or for any purpose whatever, without the consent of the licensee, lessee or owner, shall, for the first offence, be punished by a fine of not more than twenty dollars or by imprisonment for not more than thirty days, and for each subsequent offence, by a fine of not more than fifty dollars or by imprisonment for not more than six months.

SECTION 113. The state board of health may examine all complaints which may be brought to its notice relative to the contamination of tidal waters and flats in this commonwealth by sewage or other causes, may determine, as nearly as may be, the bounds of such contamination, and, if necessary, mark such bounds. It may also, in writing, request the commissioners on fisheries and game to prohibit the taking from such contaminated waters and flats of any oysters, clams, quahaugs and scallops. Upon receipt of such request, said commissioners shall prohibit the taking of such shell fish from such contaminated waters or flats for such period of time as the state board of health may prescribe.

Taking of shell fish from contaminated waters regulated. 1901, 138, §§ 1, 2.

SECTION 114. Whoever takes any oysters, clams, quahaugs or scallops from tidal waters or flats from which the taking has been prohibited as provided in the preceding section shall forfeit not less than five nor more than ten dollars for the first offence, and not less than fifty nor more than one hundred dollars for each subsequent offence; but such penalties shall not be incurred until one week after the commissioners on fisheries and game shall have caused notice of such prohibition, with a description, or the bounds, of the tidal waters or flats to which such prohibition applies, to be published in a newspaper published in the town or county in which or adjacent to which the tidal waters or flats to which such prohibition applies are situated.

Penalties. 1901, 138, § 3.

SHELL FISH FOR BAIT.

SECTION 115. No person shall take from the towns of Chatham, Nantucket, Barnstable or Mashpee any shell fish for bait or other use, except clams and a shell fish commonly known by the name of horsefeet; and no quantity exceeding seven bushels of clams, including the shells, or one hundred horsefeet, shall be taken in one week for each vessel or craft, nor, in any case, unless a permit has first been obtained from the selectmen of the town.

No shell fish, except, etc., to be taken in Chatham, etc. 1799, 19, § 2. R. S. 55, § 16. 1850, 6, § 2. 1856, 214, § 2. G. S. 83, § 19. 1867, 258. P. S. 91, § 102.

REGULATION OF FISH WEIRS, NETS, PURSES AND SEINES.

SECTION 116. The mayor and aldermen of a city and the selectmen of a town lying upon tide water, except cities and towns bordering on Buzzard's bay, may in writing authorize any person to construct weirs, pound nets or fish traps in said waters within the limits of such city or town for a term not exceeding five years, if such weirs, pound nets or fish traps do not obstruct navigation or encroach on the rights of other persons.

Town officers may authorize fish weirs. 1856, 50, § 1. P. S. 91, § 70. 1893, 205, § 1. 16 Gray, 290.

SECTION 117. Whoever wilfully destroys or injures any such weir, pound net or fish trap, or takes fish therefrom without the consent of the owner, shall forfeit not more than twenty dollars to the use of the owner, and shall be liable in an action to the person injured.

Penalty for injuring such fish weirs. 1856, 50, § 2. P. S. 91, § 71.

SECTION 118. Whoever constructs or maintains a weir, pound net or fish trap in tide water without the authority mentioned in section one hundred and sixteen, or from an island in tide water without authority in writing from the mayor and aldermen of every

— for constructing unauthorized fish weirs. 1877, 119 P. S. 91, § 72.

city and the selectmen of every town which is distant not over two miles from said island, shall forfeit ten dollars for each day he maintains such weir, pound net or fish trap; and he may be indicted therefor and enjoined therefrom.

Owners of fish weirs, etc., to make returns.
1876, 104.
1881, 28.
P. S. 91, §§ 73–75.
1889, 109, §§ 2, 3.
1901, 290.

SECTION 119. The owner of every pound net, weir, fyke net or similar contrivance, of every fishing pier, seine, drag or gill net, lobster pot or trap used in any of the waters of this commonwealth for fishing purposes, shall annually, on or before the twentieth day of October, make a written report, under oath, to the commissioners of the number of pounds and the value of each kind of edible fish caught by his pound net, weir, fyke net or similar contrivance, pier, seine, drag or gill net, and the number and value of lobsters taken by him in pots or traps, during the year last preceding the date of said report, and the number and value of the devices used in such catching or taking, and the number of persons employed therein; and for such purpose, the commissioners shall annually, on or before the fifteenth day of March, provide him, upon his application, with suitable blank forms for such reports, so arranged that each month's catch may be separately recorded thereon; and, in filling out such reports, such owner shall give the results of each month's fishing, so far as may be practicable. Such owner shall apply to the commissioners for such blank forms. The owner of any cars or other contrivances used for keeping lobsters shall have his name and residence legibly marked thereon. Whoever knowingly and wilfully violates the provisions of this section shall be punished by a fine of not less than ten nor more than one hundred dollars.

Prohibition of fish weirs, etc., in certain waters between certain dates.
1880, 61, §§ 1, 2, 4.
P. S. 91, §§ 76–78.

SECTION 120. Subject to the provisions of the two following sections, no person shall, from the first day of May to the fifteenth day of June, set, or permit to remain set, a fish pound, weir, trap, fyke or similar fixed apparatus for catching fish, except gill nets, between the hours of six o'clock on Saturday morning and six o'clock on Sunday evening, so as to catch fish in the tidal waters of the counties of Dukes County or Bristol, of the towns of Mattapoisett, Marion or Wareham, of the westerly boundaries of Bourne and Falmouth at and near Buzzard's bay, or of that portion of the southerly boundary of the county of Barnstable extending from the southwesterly corner of the town of Falmouth easterly to Point Gammon in the town of Yarmouth. Whoever violates the provisions of this section shall be punished by a fine of not less than one hundred nor more than two hundred dollars; but all prosecutions under this section shall be commenced within three months after the commission of the offence.

Use of weirs in Buzzard's bay forbidden.
1870, 249, §§ 1, 2.
1874, 282.
P. S. 91, § 79.
1893, 205, § 2.

SECTION 121. Whoever sets, uses or maintains any trap, weir, pound, yard or other stationary apparatus of any kind for the taking of fish in the waters of Buzzard's bay or in any harbor, cove or bight thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than six months.

Use of nets in Buzzard's bay forbidden.

SECTION 122. No person shall draw, set, stretch or use any drag net, set net or gill net, purse or sweep seine of any kind for taking

fish in the waters of Buzzard's bay or in any harbor, cove or bight thereof within the jurisdiction of this commonwealth. Whoever violates, or aids or abets in the violation of, the provisions of this section shall be punished by a fine of not more than two hundred dollars for each offence. 139 U. S. 240.

1856, 176, §§ 1, 3, 4. 1865, 212. 1870, 249, §§ 1, 2. 1874, 282. P. S. 91, § 79. 1886, 192, §§ 1, 5. 152 Mass. 230.

SECTION 123. A net or seine which is used in violation of the provisions of the preceding section and a boat, craft or fishing apparatus which is employed in such illegal use, and all fish found therewith, shall be forfeited. An inhabitant of a town bordering on said bay may seize and detain for not more than forty-eight hours any net or seine found in use in violation of the provisions of the preceding section, and any boat, craft, fishing apparatus and fish found therewith, so that they may be seized and libelled.

Forfeiture of nets, etc. 1870, 249, § 3. P. S. 91, § 79. 1886, 192, § 2.

SECTION 124. All nets and seines in actual use which are set or stretched in violation of the provisions of sections one hundred and twenty-two and one hundred and twenty-eight are declared to be common nuisances. 1887, 193, § 2.

Seines, etc., declared nuisances. 1870, 249, § 4. P. S. 91, § 80. 1886, 192, § 3.

SECTION 125. The provisions of the four preceding sections shall not affect the corporate rights of any fishing company situated on Buzzard's bay, nor the use of nets or seines in lawful fisheries for shad or alewives in influent streams of said bay. 1891, 327.

Effect of preceding sections limited. 1886, 192, § 4. 1887, 197. 1890, 229.

SECTION 126. In the statutes of this commonwealth the term "waters of Buzzard's bay" shall be deemed to mean the body of water commonly known as Buzzard's bay and extending southwesterly to a line drawn from Cuttyhunk lighthouse to the southerly extremity of Gooseberry neck in the town of Westport.

Buzzard's bay defined. 1898, 169.

SECTION 127. Whoever sets or uses or aids in setting or using any seine, mesh net or gill net for the purpose of catching any other fish than mackerel, or by such means catches and retains any other fish than mackerel, in the waters of the towns of Edgartown and Cottage City within three miles from the shores thereof, may, upon view of the offence by any of the commissioners on fisheries and game or their deputies, or any officer qualified to serve criminal process or member of the district police, be arrested without warrant and prosecuted by him; and on conviction thereof shall be punished by a fine of not more than two hundred dollars, and, in the discretion of the court, shall forfeit to the commonwealth all fish taken in said nets. The provisions of this section shall not affect the rights of any persons mentioned in section twenty-three or the corporate rights of any fishing company.

Use of nets in waters of Edgartown, etc. 1886, 234. 1893, 105. 1897, 288, § 1.

SECTION 128. Whoever draws, sets, stretches or uses any net, purse or seine of any kind for taking fish in the waters of the town of Westport, except as provided in the following section, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months, or by both such fine and imprisonment; and all fish so taken shall be forfeited to the commonwealth.

—in Westport regulated. 1788, 7. 1887, 193, § 1.

Limitation of preceding section. 1887, 193, § 3. 1891, 137.

SECTION 129. The provisions of the preceding section shall not, except on Fridays and Saturdays, apply to the taking in said waters of mackerel in any way, nor to the taking by hand nets of smelts, herring or alewives, nor to the taking of smelts, herring, alewives or perch, in that part of Westport river north of a line drawn east and west from the south end of Cadman's neck in said river.

Enforcement of section. 1887, 193, § 4.

SECTION 130. The town of Westport shall at each annual town election choose by ballot for a term of three years a person who shall be sworn to enforce the provisions of section one hundred and twenty-eight.

GENERAL PROVISIONS.

Penalty for taking fish, etc., from traps, etc. 1882, 53.

SECTION 131. Whoever takes any fish or lobster from a trap, trawl or seine set for catching fish or lobsters, without the consent of the owner thereof, and whoever wilfully molests or interferes with such trap, trawl or seine, shall, for the first offence, be punished by a fine of not less than five nor more than twenty-five dollars or by imprisonment for thirty days, or by both such fine and imprisonment; and for any subsequent offence, by a fine of not less than twenty nor more than fifty dollars or by imprisonment for sixty days, or by both such fine and imprisonment.

— for taking fish except with hook and line. 1741–2, 20, § 1. 1754–5, 31, §§ 1, 2. 1764–5, 34, §§ 1, 2. 1822, 21. R. S. 55, § 2. 1857, 30. G. S. 83, § 2. 1869, 384, § 26.

SECTION 132. Whoever takes any fish which at any season frequent fresh water, except eels and pickerel, subject to the provisions of section sixty-eight, and except as otherwise allowed in this chapter, in any other manner than by artificially or naturally baited hook and hand line, hand or dip net, sweep seine, or salmon pot, shall forfeit not less than five nor more than fifty dollars; but towns may permit the use of set nets for taking herring and alewives. P. S. 91, § 48.

— for poisoning fish. 1830, 45. R. S. 55, § 1. G. S. 83, § 1. P. S. 91, § 44.

SECTION 133. Whoever puts or throws into any waters for the purpose of taking or destroying fish therein any poisonous substance, simple, mixed or compound, shall forfeit ten dollars for each offence.

Officers to prosecute. 1885, 220, § 6.

SECTION 134. The mayor and aldermen of a city or the selectmen of a town may designate one or more constables for the detection and prosecution of any violation of the laws of the commonwealth relative to shell fisheries. Such constables may arrest without warrant any person found violating such laws, and detain him for prosecution not more than twenty-four hours; and may seize any boat or vessel used in such violation, and her tackle, apparel and furniture and implements, which shall be forfeited.

Prosecutions under this chapter limited. 1812, 103, § 4. 1868, 179, § 3. 1869, 384, § 32.

SECTION 135. Actions and prosecutions under the laws relative to fisheries shall, unless otherwise expressly provided, be commenced within one year after the time when the cause of action accrued or the offence was committed. 1873, 137, § 1. P. S. 91, § 103.

Town officers to enforce certain sections. 1874, 153, § 3. 1876, 221, § 2. P. S. 91, §§ 54, 60.

SECTION 136. The mayor and aldermen of cities, the selectmen of towns, police officers and constables shall cause the provisions of sections sixty-three, seventy-one and seventy-two to be enforced in their respective cities and towns.

SECTION 137. All fines, penalties and forfeitures recovered in prosecutions under the laws relative to fisheries, except as provided in section eighty-eight, shall be equally divided between the complainant and the commonwealth; but if the complainant is a deputy appointed by the commissioners on fisheries and game and receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid into the treasury of the commonwealth.

Disposition of penalties.
R. S. 55, §§ 10, 17.
1869, 384, § 33.
1874, 110, § 2.
1880, 61, § 3.
1881, 276, § 3.
P. S. 91, §§ 85, 104.
1890, 390, § 3.
1898, 205.
1899, 360.

108 Mass. 139.

SECTION 138. The provisions of this chapter shall not repeal or affect any provisions or penalties contained or any privileges granted in any special statutes relating to fisheries in particular places.

Special laws not repealed.
G. S. 83, § 2.
1869, 384, §§ 7, 22, 26.
P. S. 91, § 105.

SECTION 139. Whoever kills a seal in this commonwealth, and produces satisfactory evidence thereof under oath with the tail of the seal killed to the clerk of the city or town within which such seal was killed, shall receive from such clerk a certificate thereof stating the fact, and upon filing said certificate with the city or town treasurer he shall receive from the city or town three dollars for every seal so killed; and the city or town shall be annually reimbursed by the county in which it is located for all amounts so paid.

Bounty for killing seals.
1888, 287.
1892, 234.

KELP AND SEAWEED.

SECTION 140. Any person may take and carry away kelp or other seaweed between high and low water mark while it is actually adrift in tide waters; but for such purpose no person shall enter on upland or on lawfully enclosed flats without the consent of the owner or lawful occupant thereof. The provisions of this section shall not apply to any city or town in which the subject matter thereof is regulated by special laws.

Kelp, etc., adrift.
1859, 247.
G. S. 83, § 20.
P. S. 91, § 106.
2 Allen, 549.

CHAPTER 92.

OF THE PRESERVATION OF CERTAIN BIRDS AND ANIMALS.

SECTION 1. The Lord's day shall be close season. Whoever hunts or destroys birds or game of any kind on the Lord's day shall be liable to the penalty imposed for a violation of the provisions of law applicable to other close seasons in addition to the penalty imposed by the provisions of section twelve of chapter ninety-eight.

Hunting, etc., on Lord's day.
1899, 116.

SECTION 2. Whoever takes, kills or has in possession, or buys, sells or offers for sale, a woodcock or a ruffed grouse, commonly called partridge, between the first day of December and the first day of October following, whenever or wherever such bird may have been taken or killed, or whoever at any time prior to the thirteenth day of July in the year nineteen hundred and three buys, sells, offers for sale or has in possession for sale a woodcock or ruffed grouse, commonly called partridge, whenever or wherever such bird may have been taken or killed, shall be punished by a fine of twenty dollars for each bird. P. S. 92, § 1. 1886, 276, §§ 1, 3.

Close season for woodcock and partridge.
1817, 103, § 1.
R. S. 53, § 1.
1849, 158, § 2.
1850, 296.
1855, 197, § 1.
G. S. 82, § 1.
1865, 158.
1868, 126.
1869, 246, § 1.
1870, 304, § 1.
1874, 77, § 1.
1877, 95, § 1.
1879, 209, § 1.
1881, 297, § 1.

1888, 292.
1890, 249, § 1.
1891, 142.
1893, 189.
1894, 205.
1898, 195.
1900, 379, §§ 1, 2, 5.
128 Mass. 410.

Close season for quail.
1817, 103, § 1.
R. S. 53, § 1.
1855, 197, § 1.
G. S. 82, § 1.
1865, 158.
1867, 257.
1868, 126.
1869, 246, § 2.
1871, 260.
1879, 209, § 1.
1881, 297, § 1.
P. S. 92, § 1.
1886, 276, §§ 1, 3.
1888, 292.
1890, 249, § 1.
1903, 189, 398.
1904, 205.
1908, 195.
1909, 379, §§ 3, 5.
128 Mass. 410.

SECTION 3. Whoever takes, kills or has in possession, or buys, sells or offers for sale a quail, between the first day of December and the first day of October following, whenever or wherever such bird may have been taken or killed, shall be punished by a fine of twenty dollars for each bird; but a person, firm or corporation dealing in game or engaged in the cold storage business may buy, sell or have in possession, and a person may buy from such person, firm or corporation, and have in possession if so bought, quail from the first day of December to the first day of May, if such quail were not taken or killed in this commonwealth contrary to the provisions of this chapter: and a person, firm or corporation dealing in game or engaged in the cold storage business may have quail in possession on cold storage at any season, if such quail were not taken or killed in this commonwealth contrary to the provisions of this chapter.

— for pinnated grouse and duck.
1830, 69.
R. S. 53, § 1.
1837, 170, § 1.
1844, 156, § 1.
G. S. 82, § 6.
1869, 246, § 3.
1870, 304, §§ 2, 3.
1875, 172.
1877, 95, §§ 2, 7.
1879, 209, §§ 2, 9.
1881, 297, §§ 1, 2.
P. S. 92, §§ 1, 3.
1886, 276, §§ 1, 3.
1888, 292.
1890, 249, § 1.
1891, 142.
1903, 189, 398.
1904, 205.
1908, 195.
1909, 379, §§ 4, 5.
128 Mass. 410.

SECTION 4. Whoever takes or kills a pinnated grouse at any time, or a wood or summer duck, black duck or teal between the first day of March and the first day of September following, or any other of the so-called duck species between the twentieth day of May and the first day of September, or buys, sells or has in possession any of the birds named in this section during the time within which the taking or killing thereof is prohibited, whenever or wherever such birds may have been taken or killed, shall be punished by a fine of twenty dollars for each bird; but a person, firm or corporation dealing in game or engaged in the cold storage business may buy, sell or have in possession, and a person may buy from such person, firm or corporation and have in possession, if so bought, pinnated grouse or any of the so-called duck species, at any season, if such birds were not taken or killed in this commonwealth contrary to the provisions of this chapter.

— for shore birds and pigeons.
1817, 103, § 1.
1821, 10, § 1.
1835, 136, § 1.
R. S. 53, §§ 1, 5.
1849, 158, §§ 2–4.
1850, 296.
G. S. 82, §§ 5, 10.
1867, 257.
1869, 246, § 4.
1870, 304, § 4.
1877, 95, § 3.
1879, 209, §§ 3, 4.

SECTION 5. Whoever takes or kills a plover, snipe, sandpiper, rail or any of the so-called shore, marsh or beach birds between the first day of May and the fifteenth day of July, or a wild or passenger pigeon, gull or tern at any time, shall be punished by a fine of ten dollars for every bird so taken or killed; but the provisions of this section shall not apply to the great American herring gull nor to the great black-backed gull between the first day of November and the first day of May following.

1881, 297, § 3. P. S. 92, §§ 4, 5. 1886, 276, § 2. 1901, 178.

Penalty for buying or selling during close seasons.
1817, 103, § 1.
1830, 69.
R. S. 53, § 1.
G. S. 82, § 5.
1870, 304, § 4.
1877, 95, § 3.
1879, 209, § 3.
1881, 297, § 3.
P. S. 92, § 4.
1886, 276, § 3.
1909, 379, § 4.
128 Mass. 410.

SECTION 6. Whoever buys, sells or has in possession any of the birds named in sections five or seven of this chapter and protected thereby, during the time within which the taking or killing thereof is prohibited, whenever or wherever the aforesaid birds may have been taken or killed, shall be punished by a fine of ten dollars for each bird; but a person, firm or corporation dealing in game or engaged in the cold storage business may buy, sell or have in possession, and a person may buy from such person, firm or corporation and have in possession, if so bought, wild pigeons and any of the so-called shore, marsh or beach birds, at any season, if not taken or killed in this commonwealth contrary to the provisions of this chapter.

SECTION 7. Whoever takes or kills a wild or undomesticated bird not named in sections two, three, four and five, except English sparrows, crow blackbirds, crows, jays, birds of prey, wild geese and fresh water and sea fowl not named in said sections, or wilfully destroys, disturbs or takes a nest or eggs of any wild or undomesticated birds, except such as are not protected by the provisions of this section, shall be punished by a fine of ten dollars; but a person over twenty-one years of age, who has a certificate from the commissioners on fisheries and game or from the president of the Boston Society of Natural History that he is engaged in the scientific study of ornithology or is collecting in the interest of a scientific institution, may at any season take or kill or take the nests and eggs of an undomesticated bird, except woodcock, ruffed grouse and quail; but the provisions of this section shall not authorize a person to enter upon private grounds without the consent of the owner thereof for the purpose of taking nests or eggs or killing birds. Said commissioners or the president of said society may at any time revoke such certificate.

Penalty for killing wild birds.
1869, 246, § 7.
1870, 304, § 5.
1877, 95, § 4.
1879, 209, § 5.
P. S. 92, § 6.
1883, 36.
1886, 276, § 4.

SECTION 8. Whoever has in possession the body or feathers of a bird, the taking or killing of which is prohibited by the provisions of the preceding section, whether taken in this commonwealth or elsewhere, or wears such feathers for the purpose of dress or ornament, shall be punished by a fine of ten dollars; but the provisions of this section shall not prohibit the taking or killing of such birds by the holders of certificates provided for in the preceding section, nor shall they apply to natural history associations or to the proprietors of museums, or other collections for scientific purposes, or to non-residents of the commonwealth passing through it or temporarily dwelling therein.

—for possession of body or feathers of birds.
1897, 524.
1898, 339.
[1 Op. A. G. 478.]

SECTION 9. Whoever takes or kills a gray squirrel, hare or rabbit between the first day of March and the first day of October, or within said time, buys, sells or offers for sale any of said animals, shall be punished by a fine of ten dollars; but any person, firm or corporation dealing in game or engaged in the cold storage business may buy, sell or have in possession, and any person may buy from such person, firm or corporation, and have in possession if so bought, Colorado jack rabbits, Nova Scotia white or eastern white rabbits at any season, if they have not been taken or killed in this commonwealth contrary to the provisions of this section.

Close season for gray squirrels, etc.
1879, 209, § 8.
P. S. 92, § 9.
1886, 276, § 5.
1894, 97.
1901, 102.
153 Mass. 171.

SECTION 10. Whoever takes or kills a rabbit, gray squirrel or chipmunk, or any land bird, except the English sparrow, within that section of the commonwealth bounded by Squam river, Ipswich bay, the Atlantic ocean, Massachusetts bay and Gloucester harbor, before the seventh day of April in the year nineteen hundred and two, shall be punished by a fine of twenty dollars for every such animal or bird so taken or killed.

—on Cape Ann.
1897, 140.

SECTION 11. Whoever takes or kills a game bird or water fowl, hare or rabbit by means of a trap, net or snare, or by the use of a ferret; and whoever, for the purpose of taking or killing a game bird, water fowl, hare or rabbit, constructs or sets a trap, snare

Penalty for taking birds, etc., by snares, etc.
1835, 136, § 2.
R. S. 53, § 6.
1855, 197, § 2.

G. S. 82, §§ 2, 11.
1870, 304, § 6.
1874, 57.
1877, 95, § 5.
1879, 209, § 6.
1881, 297, § 4.
P. S. 92, § 7.
1886, 276, § 6.
1891, 254.
1892, 102, § 2.
1897, 184.
1898, 124.
1901, 174.

or net or uses a ferret; and whoever shoots at or kills any wild fowl or any of the so-called shore, marsh or beach birds with a swivel or pivot gun or by the use of a torch, jack or artificial light, or pursues any wild fowl with or by aid of a boat propelled by steam or naphtha, or of a boat or vessel propelled by any mechanical means other than sails, oars or paddles, or in that portion of Boston harbor lying westerly and southwesterly of a line running from Deer Island to Point Allerton, including the waters of Dorchester bay, Quincy bay, Weymouth bay and Hingham bay, shoots at, kills or pursues a wild fowl from or by the aid or use of any boat or floating device propelled by steam, naphtha, gasolene, electricity, compressed air, or any similar motive power, shall be punished by a fine of twenty dollars for each offence. The constructing or setting of a trap, snare or net adapted for the taking or killing of a game bird, water fowl, hare or rabbit, upon premises frequented by them, shall be prima facie evidence of such constructing and setting with intent to take and kill contrary to law; and possession of a ferret in a place where the game mentioned in this section might be taken or killed, shall be prima facie evidence that the person having it in possession has used it for taking and killing game contrary to law.

Limitation of preceding section.
1887, 300.
1900, 379, § 1.
1901, 141.

SECTION 12. The provisions of the preceding section shall not apply to the trapping or snaring of ruffed grouse, commonly called partridge, or hares or rabbits upon his land by an owner of land, or by a member of his family if authorized by him, between the first day of October and the first day of December.

Shooting of black ducks in Plymouth harbor.
1888, 269.
1900, 209.

SECTION 13. Whoever in Plymouth harbor or bay, so called, including the waters adjacent to the towns of Plymouth, Kingston and Duxbury, shoots at, kills or pursues a black duck, goose, brant or other aquatic bird by the use of a sneak boat, raft, floating box or similar device, not an ordinary dory or rowboat, or by the use of a pivot gun or swivel gun or any other firearm not usually held and discharged from the shoulder shall be punished by a fine of not less than ten nor more than fifty dollars.

Protection of private land.
1884, 308, §§ 1, 3.

SECTION 14. Whoever, for the purpose of shooting or trapping, enters upon land without permission of the owner thereof, after such owner has conspicuously posted thereon notice that shooting or trapping thereon is prohibited, shall be punished by a fine of not more than twenty dollars.

Ownership of game artificially propagated.
1884, 308, §§ 2, 3.

SECTION 15. Game artificially propagated and maintained upon land, upon which notice has been posted as provided in the preceding section, shall be the exclusive property of the person propagating and maintaining it, but if he sells such game for food at seasons when its capture is prohibited by law, he shall be punished by a fine of not more than twenty dollars.

Preservation of pheasants.
1895, 55.
1900, 64.

SECTION 16. Whoever, prior to the thirteenth day of February in the year nineteen hundred and five, takes, kills or has in possession, except for the purpose of propagation, a Mongolian,

English or golden pheasant shall be punished by a fine of twenty dollars for each bird.

SECTION 17. Whoever, before the first day of November in the year nineteen hundred and three, hunts, chases or kills a deer, except his own tame deer kept on his own grounds, shall forfeit one hundred dollars for each offence. Preservation of deer. 1898, 181.

SECTION 18. Whoever, except on Tuesdays, Wednesdays, Thursdays and Fridays in November, hunts, takes, wounds or kills a deer, except his own tame deer kept on his own grounds, and whoever on any of said days hunts, takes, wounds or kills a deer, except his own tame deer kept on his own grounds, in any pond or river or within two hundred yards thereof, shall, for each offence, be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than one nor more than three months, or by both such fine and imprisonment. The owner or keeper of a dog found chasing or hunting deer at any time except in November shall be punished by a fine of twenty dollars. Any person may kill a dog found chasing or hunting deer at any time except on Tuesdays, Wednesdays, Thursdays and Fridays in November, if the dog is used for such purpose with the knowledge and consent of his owner or keeper, and the owner or keeper of such dog shall be punished by a fine of fifty dollars. The possession of a deer at any time except in November shall be prima facie evidence to convict under the provisions of this section. Same subject. 1693–4, 19, §§ 3, 5, 6. 1698, 21, §§ 1–3. 1717–18, 12, § 1. 1739–40, 3, § 1. 1754–5, 7. 1763–4, 28, § 2. 1802, 15. 1806, 45. 1817, 58. 1823, 74. R. S. 53, §§ 7, 8. G. S. 82, §§ 12, 13. 1869, 246, § 8. 1870, 304, §§ 7, 8. 1871, 320. 1874, 77, § 2. 1877, 95, §§ 6, 8. 1879, 209, §§ 7, 10. 1881, 297, § 5. P. S. 92, §§ 8, 10. 1882, 199. [1 Op. A. G. 523.]

SECTION 19. The authority of the commissioners on fisheries and game and of their deputies shall extend to the propagation, protection and preservation of birds and animals in like manner as to fish. Duties of commissioners on fisheries and game. 1886, 276, § 7. 1895, 56.

SECTION 20. All fines accruing under the provisions of this chapter shall be paid and disposed of in accordance with the provisions of section one hundred and thirty-seven of chapter ninety-one. Disposition of fines. 1817, 103, § 1. 1830, 69. 1855, 197, § 4.

1879, 209, § 11. P. S. 92, § 11. 1886, 276, § 9. 1899, 360. 108 Mass. 139.

SECTION 21. Whoever at any time takes or sends or causes to be taken or transported beyond the limits of the commonwealth a woodcock, quail or ruffed grouse which has been taken or killed within the commonwealth, or has in possession such bird or birds with intent to take or cause the same to be taken out of the commonwealth, shall be punished by a fine of ten dollars for every bird so had in possession or taken or caused to be taken or sent beyond the limits of the commonwealth as aforesaid. Penalty for transporting woodcock, etc. 1890, 249, § 2.

SECTION 22. Whoever, except as provided in the preceding section, takes, carries, sends or transports out of this commonwealth any of the birds or animals protected by the provisions of this chapter, which have been illegally taken or killed therein, shall be punished by a fine of twenty dollars. — for transporting birds, etc., out of the state. 1886, 276, § 10.

SECTION 23. Whoever knowingly introduces into the county of Dukes County and liberates therein a fox or raccoon shall be punished for each offence by a fine of not less than twenty-five nor Destruction of foxes, etc., in Dukes County. 1890, 237. 1900, 128.

more than fifty dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment. The county commissioners of said county may offer a reward for the destruction of hawks, foxes and raccoons, and authorize the payment thereof by the county upon proper proof of such destruction.

Extermination of English sparrow. 1890, 443.

SECTION 24. The officers having charge of public buildings in cities and such officers as the selectmen designate and appoint in towns shall take and enforce such reasonable means and use such appliances, except poison, as in their judgment will effectively exterminate the English sparrow in such city or town. Whoever wilfully resists such officers while engaged in such duties or knowingly interferes with the means used by them for such purpose so as to render them less effective shall be punished by a fine of not more than twenty-five dollars for each offence. The provisions of this section shall not authorize an officer to enter on private property without the consent of the owner or occupant thereof.

CHAPTER 93.

OF TIMBER AFLOAT OR CAST ON SHORE.

Timber carried away by flood may be taken by owners, etc. 1780, 31. 1793, 42, §§ 4, 6. 1804, 5. R. S. 52, § 1. 1841, 26. G. S. 78, § 1. P. S. 94, § 1. 106 Mass. 287.

SECTION 1. The owner of a log, mast, spar or other timber carried by flood into land adjoining any river, stream or pond may, at any time within six months, remove the same from said land upon paying or tendering to the owner or occupant thereof such reasonable damages as may be caused by such removal; and if he does not so remove it within said six months, or otherwise agree with the owner or occupant of such land, it shall be deemed the property of such owner or occupant.

Penalty for altering marks of owners. 1793, 42, §§ 1, 6. 1804, 5. R. S. 52, § 2. G. S. 78, § 2. P. S. 94, § 2.

SECTION 2. Whoever unlawfully cuts out, alters or destroys a mark of the owner made on any log or other timber which has been put into a river, stream or pond shall forfeit not more than ten dollars for each log or other piece of timber upon which he has altered, cut out or destroyed the mark, and shall be liable in damages to the owner thereof for treble the value thereof, which shall be recovered with said forfeiture in an action of tort.

— on timber of unknown owners. 1793, 42, § 2. 1804, 5. R. S. 52, § 3. G. S. 78, §§ 3, 6. P. S. 94, § 3.

SECTION 3. Whoever unlawfully cuts out, alters or destroys any marks of such logs or other timber, the owner of which is not known, shall forfeit not more than ten dollars for every log or other piece of timber upon which he has altered, cut out or destroyed the mark, which shall be recovered to the use of any person who sues therefor.

Prima facie evidence. 1793, 42, § 6. 1804, 5. R. S. 52, § 4. G. S. 78, § 4. P. S. 94, § 4.

SECTION 4. The finding of the logs or other timber in the possession of the defendant, with the marks cut out, altered or destroyed, shall, in actions under the provisions of the two preceding sections, be prima facie evidence of his guilt and the burden of proof shall be upon him to discharge himself.

SECTION 5. No person shall cause or permit to be driven or floated down the Connecticut river below its confluence with the Chicopee river any masts, spars, logs or other timber, unless they are formed and bound into rafts and placed under the care of a sufficient number of persons to manage them so as to prevent damage thereby. If damage is done to a bridge or dam upon or over said river below said confluence by any timber so driven or floated in any manner not herein allowed, the owner of the timber, and every person who causes or permits it to be so driven or floated, shall be jointly and severally liable in an action of tort for all damage caused thereby.

Regulations as to timber in Connecticut river.
1814, 150.
R. S. 52, § 5.
G. S. 78, § 5.
P. S. 94, § 5.
1882, 274, § 2.
1883, 183, § 1.
129 Mass. 580.
145 Mass. 261.

SECTION 6. The county commissioners of Franklin, Hampshire and Hampden, within their respective counties, upon the petition of a railroad company, or its president, owning or operating a railroad with a bridge across the Connecticut river, or of the owner or operators of a ferry or ferry boat regularly plying across said river, or of the owner of a steamboat regularly plying upon said river, or of the owner of a dam across the same, or of the owner or manager of a shad or salmon fishery, or of the mayor of a city or the selectmen of a town bound wholly or in part to support a bridge or ferry across said river within any of said counties, and upon such notice to the parties interested as said commissioners consider proper, shall order and require any person or corporation, their servants and agents, driving, floating or causing or permitting to be floated or driven or run down said Connecticut river above its confluence with the Chicopee river, any masts, spars, logs or other timber, to guard and protect said bridges, the supports thereof, said dams, ferries, ferry boats, steamboats and fisheries, by such booms and other safeguards, and to comply with such reasonable regulations as to time and manner, in floating, driving or running such masts, spars, logs or other timber, as said commissioners may consider necessary and sufficient and shall from time to time establish. Whoever, himself or by his agent or servant, drives, runs, floats or causes or permits to be driven, run or floated down said river, above said confluence, any masts, spars, logs or other timber without first complying with the said orders, requirements and regulations of said commissioners may be restrained by proceedings in equity in behalf of parties interested; and shall also be liable jointly and severally in an action of tort for all damage caused thereby. The provisions of this section shall not affect or impair any right or remedy of any party injured by the floating, driving or running of any masts, spars, logs or other timber down or upon any portion of said Connecticut river.

Floating of logs in Connecticut river regulated.
1882, 274, § 2.
1883, 183, § 2.

SECTION 7. Whoever unlawfully takes, carries away or otherwise converts to his own use, without the consent of the owner, any log suitable to be sawed or cut into boards, clapboards, shingles, joists or other timber, or any mast or spar, the property of another, lying or being in a river, pond, canal, lake, bay, stream or inlet within this commonwealth shall be punished by a fine of not less than five nor more than twenty dollars or by imprisonment for not less than thirty days nor more than six months for every such log, mast or spar so unlawfully taken or carried away.

Penalty for unlawful conversion of timber in rivers, etc.
1793, 42, §§ 3, 6.
1804, 5.
1854, 339, § 1.
G. S. 78, § 6.
P. S. 94, § 6.

CHAPTER 94.

OF LOST GOODS AND STRAY BEASTS.

Finder of lost money or goods to give notice, etc.
C. L. 142, § 1.
1698, 9, § 1.
1727-8, 6, § 1.
1788, 55, § 1.
R. S. 56, § 1.
G. S. 79, § 1.
P. S. 95, § 1.
106 Mass. 287.

SECTION 1. Whoever finds lost money or goods of the value of three dollars or more, the owner of which is unknown, shall, within two days cause notice thereof to be posted in two public places within the city or town where said property was found, and shall also, within seven days, give notice thereof in writing to the city or town clerk, and pay him twenty-five cents for making an entry thereof in a book to be kept for that purpose; and if the money or goods are of the value of ten dollars or more, the finder shall, within one month after such finding, cause the same to be advertised in a newspaper or publicly cried, if there is a crier in the city or town, and notice thereof to be posted in like manner in two adjoining cities or towns.

When stray beasts are taken up, notice to be given.
C. L. 142, § 1.
1698, 9, §§ 1, 2.
1788, 55, § 1.
R. S. 56, § 2.
G. S. 79, § 2.
P. S. 95, § 2.

SECTION 2. Whoever takes up a stray beast shall cause a notice thereof, containing a description of its color and its natural and artificial marks, to be entered with the city or town clerk in a book to be kept for the purpose; and shall cause the same to be cried, if there is a crier in the city or town, and notices thereof containing a like description of the beast to be posted in the manner provided in the preceding section; otherwise he shall not be entitled to compensation for any expenses which he may incur relative thereto.

Lost goods to be appraised, when.
C. L. 142, § 2.
1698, 9, § 2.
1727-8, 6, § 3.
1788, 55, § 2.
1827, 74, § 2.
R. S. 56, § 4.
G. S. 79, § 4.
P. S. 95, § 4.

SECTION 3. Every finder of lost goods or stray beasts of the value of ten dollars or more shall also, within two months and before any use is made of the same, procure from the city or town clerk or from a justice of the peace a warrant directed to two disinterested persons, to be appointed by the clerk or justice, and returnable into said clerk's office in seven days from the date, requiring them to appraise the same at their true value, upon oath which may be administered by the clerk or justice.

Restitution of property.
C. L. 142, § 3.
1698, 9, § 3.
1788, 55, § 3.
1827, 74, § 2.
R. S. 56, §§ 5, 7.
G. S. 79, §§ 5, 7.
P. S. 95, §§ 5, 7.

SECTION 4. If the owner of such money or goods, other than stray beasts, appears within one year, and if the owner of such stray beasts appears within three months, after such entry with the clerk, and proves his right thereto, he shall have restitution of the money, goods or beasts or the full value of the money or goods, after paying for entering the same, and all reasonable charges for keeping, notifying, crying and appraising, as aforesaid, and for necessary travel in the case, to be determined, in case of disagreement between the owner and finder, by a justice of the peace.

Rights of finder, if no owner appears.
1788, 55, § 3.
R. S. 56, § 6.
G. S. 79, § 6.
P. S. 95, § 6.

SECTION 5. If no owner appears within one year, the lost money or goods shall enure to the finder, he paying to the city or town treasurer one-half of the value thereof according to said appraisal, all lawful charges being first deducted; and upon his neglect or refusal to pay the same, it shall be recovered by the city or town treasurer.

SECTION 6. If the owner does not appear and prove his title to the beasts within said three months, the finder may sell them by public auction, first giving notice of such sale at least four days before the time of sale, in two public places in the city or town in which the beasts were taken up; and the proceeds of the sale, after deducting all lawful charges, shall be deposited in the city or town treasury.

Sale of strays.
1815, 1, § 1.
1827, 74, § 2.
R. S. 56, § 8.
G. S. 79, § 8.
P. S. 95, § 8.

SECTION 7. If such owner appears within one year after such entry and proves his title to the beasts, he shall, if they have not been sold, have restitution of the same upon paying the charges arising thereon as provided in the case of lost goods; and if the beasts have been sold he shall be entitled to receive the money so deposited in the treasury from the proceeds of the sale. If no owner appears within said year, the beasts, or the value or price thereof after deducting said charges, shall, as prescribed in section five, be equally divided between the finder and the town.

Rights of owner and finder of strays.
C. L. 142, § 3.
1698, 9, § 3.
1788, 55, § 3.
1815, 1, § 2.
1827, 74, § 2.
R. S. 56, § 9.
G. S. 79, § 9.
P. S. 95, § 9.

SECTION 8. The finder of lost goods, money or stray beasts, who neglects to cause the same to be entered and cried and notice thereof to be posted as before directed, shall forfeit the value thereof, unless he delivers or accounts therefor to the owner, in which case he shall forfeit not more than twenty dollars. P. S. 95, § 10. 107 Mass. 587.

Penalty if finder neglects to give notice.
C. L. 142, § 2.
1698, 9, § 2.
1788, 55, § 5.
R. S. 56, § 10.
G. S. 79, § 10.

SECTION 9. Whoever takes away a beast taken up as a stray, without paying all lawful charges incurred in relation to the same, shall forfeit to the finder the value thereof.

—for taking away strays without paying charges.

C. L. 142, § 4.
1698, 9, § 4.
1788, 55, § 5.
R. S. 56, § 11.
G. S. 79, § 11.
P. S. 95, § 11.

CHAPTER 95.

OF UNCLAIMED OR ABANDONED PROPERTY.

SECTION 1. Railroad corporations and the proprietors of steamboats engaged in the transportation of passengers shall semi-annually, on the first Monday of January and July, publish, in one newspaper at least in every county of this commonwealth in which such corporations or proprietors have a passenger station or office, a descriptive list of all trunks, bags, valises, parcels and passengers' effects which have been left and then remain unclaimed at any passenger station or office, or in the possession of such corporations or proprietors or their agents, and the list shall indicate all such specific marks as may serve to identify the same.

Publication of unclaimed effects of passengers.
1851, 147, § 1.
G. S. 80, § 1.
P. S. 96, § 1.
6 Allen, 253.

SECTION 2. If at the expiration of six months after such advertisement any of the articles so advertised remain unclaimed, said corporations or proprietors having possession thereof shall give notice to the mayor and aldermen of the city or selectmen of the town in which the articles may be, who shall cause them to be examined, and may order them to be sold by public auction upon publication of notice of the time and place of sale as aforesaid, or may order them to be again advertised and to remain another six months before being sold.

Sale of unclaimed articles.
1851, 147, § 2.
G. S. 80, § 2.
P. S. 96, § 2.

Proceeds to be paid to commonwealth. 1851, 147, § 3. G. S. 80, § 3. P. S. 96, § 3.

SECTION 3. The proceeds of all articles thus sold, after deducting costs of storage, advertising and other expenses due to such corporations or proprietors, and the costs of said examination and sale, shall be paid over to the treasurer and receiver general for the use of the commonwealth.

Penalty for neglect to advertise, etc. 1851, 147, § 4. G. S. 80, § 4. P. S. 96, § 4.

SECTION 4. If such corporations or proprietors neglect or omit so to advertise and cause any such effects to be examined, they shall be liable for all damages caused thereby, and shall also forfeit one hundred dollars for each case of neglect or omission.

Perishable articles transported by common carriers may be sold. 1857, 237. G. S. 80, § 5. P. S. 96, § 5.

SECTION 5. When a common carrier has transported fresh meats, fresh fish, shell fish, fruit or vegetables, to their destination, has notified the owner or consignee of their arrival, and the owner or consignee after such notice refuses or omits to receive and take them away and to pay the freight and proper charges thereon, said carrier may, in the exercise of a reasonable discretion, sell the same at public or private sale without advertising, and the proceeds, after deducting the amount of said freight and charges and expenses of sale, shall be paid to the owner or consignee. If the owner or consignee on reasonable inquiry cannot be found, the sale may be made without such notice.

Sale of unclaimed goods. 1866, 152. P. S. 96, §§ 6, 7.

SECTION 6. If goods carried by a railroad company or in a steam or sailing vessel are not called for by the owner or consignee within one year after the date of their receipt at the city or town to which they are consigned, they may be sold by public auction for the charges of transportation due thereon, notice of the time and place of sale first being given by publishing the same three days in each of three successive weeks in a newspaper, if any, published in such city or town, otherwise in the newspaper published nearest thereto. The proceeds of goods so sold, after deducting costs of transportation, storage, advertising and sale, shall be placed to the credit of the owner in the books of the company or owner of the vessel making the sale, and shall be paid to the owner of the goods on demand.

—carried by express. 1864, 139. P. S. 96, §§ 8, 9.

SECTION 7. If goods which are carried by express are not called for by the owner or consignee, and he cannot be found for one year after the carriage, they may be sold by public auction, notice of the time and place of sale containing a descriptive list of all such property, with all such specific marks as may serve to identify the same first being given by publishing the same four successive weeks in a newspaper, if any, published in the city or town in which such sale is to take place, and also in the city or town to which they were consigned, otherwise in the newspaper published nearest thereto. The proceeds of goods so sold, after deducting costs of transportation, storage, advertising and sale, shall be paid to the owner thereof, upon demand and satisfactory proof of ownership within three years after the sale; otherwise to the treasurer and receiver general for the use of the commonwealth.

Disposition of stolen, etc., property by police officers of cities.

SECTION 8. If money, goods or other property, which has been stolen, lost, abandoned or taken from a person under arrest, comes into the possession of a member of the police department of a city

by virtue of his office, he shall deliver the same to the officer or member of the department designated by the rules of the department, and shall thereupon be relieved from further responsibility therefor. The officer or member to whom such property is so delivered shall give the notices required by chapter ninety-four. 1880, 155, § 1. P. S. 96, § 10.

SECTION 9. If such money, goods or other property remains unclaimed in the possession of such police department or a member thereof for six months, and the owner or his place of abode or business is unknown, such department may sell the same by public auction, notice of the time and place of sale, with a description of the property to be sold, first being given by publishing the same once in each of three successive weeks in a newspaper published in such city. Sale of such property, etc. 1880, 155, §§ 2, 3. P. S. 96, § 11.

SECTION 10. Such property, if perishable or liable to deteriorate greatly in value by keeping or the value of which will probably be less than the expense of keeping, may be sold by public auction in accordance with the rules of the department, reasonable notice of the time and place of sale first being given by publishing the same in a newspaper published in such city. If perishable, how sold. 1880, 155, § 4. P. S. 96, § 12.

SECTION 11. The proceeds of such sale, after deducting all reasonable charges and expenses incurred on such property, shall be paid into the city treasury. Proceeds, disposal of. 1880, 155, § 5. P. S. 96, § 13.

SECTION 12. If, within two years after such sale, the owner claims and proves his ownership of such property, the proceeds, after deducting all reasonable charges and expenses, shall be paid over to him, upon the order of the head of the police department. Owner to be paid if he applies within two years. 1880, 155, § 6. P. S. 96, § 14.

SECTION 13. An officer or agent of the Massachusetts Society for the Prevention of Cruelty to Animals may take charge of an animal found abandoned which appears to be diseased or disabled beyond recovery for any useful purpose, and thereupon shall, as quickly as may be, cause it to be appraised under oath by two reputable citizens, who shall view the same in his presence and determine its value; and if such appraised value does not exceed five dollars, such officer may at once cause said animal to be killed in a humane manner. Said society shall thereupon be indebted to the owner for its value, unless the appraisers determine that its death was rendered necessary by the owner's wilful abandonment or cruelty, and said society shall pay to the appraisers a reasonable compensation for their services. Abandoned animals may be killed, when. 1881, 283. P. S. 96, § 15.

CHAPTER 96.

OF THE BOARD OF HARBOR AND LAND COMMISSIONERS.

SECTION 1. There shall be a board of harbor and land commissioners consisting of three members, one of whom shall annually be appointed by the governor, with the advice and consent of the Board of harbor and land commissioners. 1866, 149, § 1.

1877, 213, §§ 1-3.
1879, 263, § 1.
1881, 287, § 1.
P. S. 19, § 1.
1893, 298.
1898, 572.

council, for a term of three years from the first day of July. The chairman of said board shall receive an annual salary of thirty-three hundred dollars, and the other members, twenty-seven hundred dollars each. They shall be allowed their actual travelling and other necessary expenses.

General powers and duties of the board.
1866, 149, §§ 2, 7, 8.
1879, 263, §§ 2, 3.
1881, 287, § 2.
P. S. 19, § 2.

SECTION 2. The board shall have an office in the state house, in which shall be kept the maps, charts, plans and documents relating to the harbors, waters and lands in its charge, its records and those of the several boards to whose duties it has by law succeeded; and it may employ engineers and clerical and other assistance. It shall annually, on or before the tenth day of January, report to the general court, and shall recommend legislation necessary for the preservation, improvement and development of the harbors and lands of the commonwealth.

Duties relative to commonwealth lands.
1859, 223.
Res. 1859, 103.
G. S. 5, § 15; 15, § 24.
1875, 239, §§ 1, 2, 4, 8.
P. S. 19, § 3.
1886, 144.
1897, 392.

SECTION 3. Said board shall, except as otherwise provided, have charge of the lands, rights in lands, flats, shores and rights in tide waters belonging to the commonwealth, and shall, as far as practicable, ascertain the location, extent and description of such lands; investigate the title of the commonwealth thereto; ascertain what parts thereof have been granted by the commonwealth; the conditions, if any, on which such grants were made, and whether said conditions have been complied with; what portions have been encroached or trespassed on, and the rights and remedies of the commonwealth relative thereto; prevent further encroachments and trespasses; ascertain what portions of such lands may be leased, sold or improved with benefit to the commonwealth and without injury to navigation or to the rights of riparian owners; and may lease the same for periods not exceeding five years. It may make contracts for the improvement, filling, sale, use or other disposition of the lands at and near South Boston known as the Commonwealth Flats, may lease any portion thereof with or without improvements thereon, for such periods and upon such terms as it shall deem best, may regulate the taking of material from the harbor and fix the lines thereon for filling said lands, and shall cause a general plan of said lands to be prepared, whereon it shall designate the portions which in its opinion should be devoted to railway and commercial purposes and those which should be devoted to general purposes. All conveyances, contracts and leases made under the provisions of this section shall be subject to the approval of the governor and council.

Powers and duties relative to province lands.
1893, 470, § 1.

SECTION 4. Said board shall have general supervision of so much of the province lands at Provincetown as lies north and west of a line beginning at a point at or near the shore of Provincetown harbor, in latitude north forty-two degrees, two minutes, and longitude west seventy degrees, eleven minutes, forty-five seconds; thence northwesterly to a point in latitude north forty-two degrees, three minutes, eight seconds, and longitude west seventy degrees, twelve minutes, forty-eight seconds; thence northeasterly to a point in latitude north forty-two degrees, three minutes, twenty-eight seconds, and longitude west seventy degrees, eleven minutes, thirty-three seconds; thence due north to a point in latitude north forty-

two degrees, three minutes, forty-eight seconds; thence due east to a point in the eastern boundary of the province lands.

Portion of province lands exempt from certain provisions of law. 1893, 470, § 4.

SECTION 5. Section three of this chapter, chapter two hundred and sixty-one of the acts of the year eighteen hundred and fifty-four, chapter one hundred and forty-four of the acts of the year eighteen hundred and eighty-six, so much of section one of chapter eleven of the province laws of the year seventeen hundred and twenty-seven as is contained in the following words "saving always the right and title of this province to the said lands which is to be in no wise prejudiced", and all other acts or parts of acts which refer to the province lands at Provincetown, except the act incorporating said town, shall not hereafter apply to that portion of said province lands lying east and south of the line fixed in the preceding section.

Bounds, etc., of province lands. 1893, 470, § 2.

SECTION 6. It shall fix and mark the bounds of the province lands within its jurisdiction, shall establish regulations for the care thereof, shall annually appoint a superintendent thereof and, with the approval of the governor and council, shall fix his salary and the amount which may be expended by him in the protection and improvement of said lands.

Enforcement of stipulations in deeds from the commonwealth. 1866, 264, §§ 1–3. P. S. 19, § 5. 101 Mass. 512. 140 Mass. 331.

SECTION 7. If the commonwealth has the right under stipulations in a deed given in its name to enter upon premises and, at the expense of the party at fault, to remove or alter a building, any of its grantees under similar deeds, their heirs, legal representatives or assigns may institute proceedings in equity to compel said board to enforce such stipulations.

Powers and duties relative to harbors, etc. 1866, 149, § 2. P. S. 19, § 6. 1885, 344, § 1.

SECTION 8. Said board shall have general care and supervision of the harbors and tide waters within the commonwealth, of the flats and lands flowed thereby, of the waters and banks of the Connecticut river within the commonwealth and of all structures therein, in order to prevent and remove unauthorized encroachments and causes of every kind which may injure said river or interfere with the navigation of such harbors, injure their channels or cause a reduction of their tide waters, and to protect and develop the rights and property of the commonwealth in such flats and lands; and it may make surveys, examinations and observations necessary therefor.

Surveys, improvements, etc., of harbors, land may be taken therefor. 1901, 398, §§ 1, 2.

SECTION 9. Said board may make surveys and improvements for the preservation of harbors and may repair damages occasioned by storms or other destructive agencies along the coast line or river banks of the commonwealth, and may take, by purchase or otherwise, in the name and behalf of the commonwealth, any land or materials necessary for making such improvements or repairs. The manner of such taking and of determining the damages caused thereby, or by any other doings of said board under the provisions of this section, shall be that provided by sections seven and eight of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, relating to the taking of land by the metropolitan park commission; and said board shall for the purposes of this section have powers like those conferred upon the

metropolitan park commission by said sections. The damages when finally determined shall be paid from the treasury of the commonwealth to the person or persons entitled thereto.

Annual appropriation. Contracts to be approved. 1901, 398, §§ 3, 4.

SECTION 10. There shall be allowed and paid out of the treasury annually a sum not exceeding ten thousand dollars, to be expended as may be necessary in carrying out the provisions of the preceding section; but no contract made under its authority shall be valid until approved in writing by the governor and council.

Removal of gravel, etc., from beaches. 1884, 269, § 2. 1892, 206.

SECTION 11. If it appears to said board that the digging or removal of stones, gravel, sand or other material, upon or from any beach, shore, bluff, headland, island or bar, in or bordering on tide waters, or the destruction of any trees, shrubs, grass or other vegetation growing thereon, is, or is likely to prove, injurious to any harbor or other navigable tide waters, it may, by notice in writing, prohibit such digging or removal, or the doing of any acts injurious to such trees or other vegetation, upon or from any such beach or other place aforesaid specified in such notice. Whoever, after receiving such notice, wilfully does any act or thing prohibited therein, and which is authorized to be so prohibited by the provisions of this section, or, being the owner or having the control of any land specified in such notice, wilfully suffers or permits such act or thing to be done thereon, shall be punished by a fine of not less than twenty nor more than two hundred dollars for each offence.

Contracts for improving flats in Boston harbor. 1897, 486, § 5. 173 Mass. 495.

SECTION 12. It may make contracts for the filling, improvement and use of the land and flats taken under the authority of chapter four hundred and eighty-six of the acts of the year eighteen hundred and ninety-seven, may, upon such plans as it may adopt, excavate and dredge in the harbor of Boston wherever the public convenience and necessity requires, shall have the management of all the wharves, docks and foreshore owned by the commonwealth in said harbor and not otherwise provided for, and may lease parcels thereof, improved or unimproved, for periods not exceeding fifteen years. Such contracts and leases shall be subject to the approval of the governor and council.

Connecticut river to be surveyed, etc. 1885, 344, §§ 5, 6.

SECTION 13. It shall, as funds are appropriated therefor, cause that portion of the Connecticut river lying within this commonwealth to be surveyed and plotted; and a copy of such survey within the limits of the counties of Hampden, Hampshire and Franklin, respectively, to be prepared, attested by them and deposited in the registry of deeds for the county to which it relates as a public record, and it, or attested copies thereof, shall be competent evidence of the facts therein contained.

Establishment of harbor lines. 1866, 149, § 3. P. S. 19, § 7.

SECTION 14. It may, after hearing the parties interested, prescribe lines in any harbor of the commonwealth and make report thereof to the general court, not later than the next session, for its action thereon. If such lines are established by the general court as the harbor lines of said harbor, no wharf, pier or other structure shall thereafter be extended into said harbor beyond such lines. Notice of the hearing shall be published three weeks successively

in a newspaper published in Boston and in one or more published in the county or counties in which such harbor lies, the first publication to be at least thirty days before the hearing.

Structures in great ponds restricted. 1888, 318, § 2.

SECTION 15. Except as authorized by the general court and as hereinafter provided, no structure shall be built or extended, or piles driven or land filled, or other obstruction or encroachment made, in, over or upon the waters of any great pond below the natural high water mark; nor shall any erection or excavation be made at any outlet thereof whereby the water may be raised or lowered.

Board to have supervision of erections, etc., in tide waters, ponds, etc., under legislative grants. 1866, 149, § 4. P. S. 19, § 8. 1885, 344, § 2. 1888, 318, § 3. 118 Mass. 345.

SECTION 16. Persons who are authorized by the general court to build over tide waters a bridge, wharf, pier or dam, to fill flats or drive piles below high water mark, or to build any structures in the Connecticut river, or to build or extend any structure or to do any other work in, over or upon the waters of any great pond mentioned in the preceding section, shall not commence such work until they have given written notice thereof to said board and submitted plans of any proposed structure, of the flats to be filled, and of the mode in which the work is to be performed, and the same has been approved in writing by said board, which may alter such plans and prescribe any direction, limits and mode of doing the work consistent with the legislative grant. Such works shall be supervised by said board.

License of erections, etc., in tide waters. 1872, 236, §§ 1, 2. 1874, 347, § 1. P. S. 19, § 9. [1 Op. A. G. 412.]

SECTION 17. Said board may license and prescribe the terms for the construction or extension of a wharf, pier, dam, sea wall, road, bridge or other structure, or for the filling of land or flats, or the driving of piles in tide water below high water mark, but not, except as to a structure authorized by law, beyond any established harbor line, nor, unless with the approval of the governor and council, beyond the line of riparian ownership. A license shall not be granted for the construction of a bridge across a river, cove or inlet, except in a location above a bridge, dam or similar structure authorized by law over such tide water, in which no draw actually exists or is required by law, and not then, if objection is made by the mayor and aldermen of the city or the selectmen of the town in which the bridge is to be built.

—in Connecticut river and great ponds. 1885, 344, § 3. 1888, 318, § 4. 1898, 498.

SECTION 18. Said board may license any person to construct and maintain booms in or across the Connecticut river, for periods of not more than five years, in such locations and upon such terms as the board may prescribe, or to build and extend a wharf, pier or shore wall below high water mark in said river, or to build or extend a wharf, pier, dam, wall, road, bridge or other structure, or to drive piles, fill land or excavate in or over the waters of any great pond below natural high water mark, or at or upon any outlet thereof, upon such terms as the board may prescribe; but such license which is beyond the line of riparian ownership, or which affects the level of the waters in such pond, shall not be valid unless approved by the governor and council.

Licenses, form of; how granted, etc.

SECTION 19. Every license under the provisions of this chapter shall be signed by a majority of the board, shall state the terms

1872, 236, § 3. 1874, 347, § 1. P. S. 19, § 10. 1885, 344, § 3. 1888, 318, § 5.

upon which it is granted and shall specify by metes, bounds and otherwise the location, dimensions and limits and the mode of performing the work authorized thereby. Before a license is granted, the board shall give notice to the mayor and aldermen of the city, or the selectmen of the town, within which the work is to be performed that they may be heard. The recital in a license that a notice required by law has been given, or that the mayor and aldermen or selectmen have not objected, shall be conclusive evidence of such facts. The board shall keep a record of each license and a plan of the work or structure.

Licenses to be recorded. 1872, 236, § 4. 1874, 347, § 2. P. S. 19, § 11. 1885, 344, § 3. 1888, 318, § 5.

SECTION 20. Such license shall be void unless, within one year after the date thereof, it and the accompanying plan are recorded in the registry of deeds for the county or district within which the work is to be performed.

— to be revocable and to expire in five years, except so far as acted on. 1869, 432, § 1. 1874, 284, § 1. P. S. 19, § 12. 1885, 344, § 3. 1888, 318, § 5.

SECTION 21. Every authority or license granted since the year eighteen hundred and sixty-eight, or hereafter granted by the commonwealth to any person or corporation to build a structure in the Connecticut river, or in or over the waters of any great pond, or upon ground over which the tide ebbs and flows, or to fill up or enclose the same, whether such ground is above or below low water mark, or within or beyond one hundred rods from high water mark, or whether it is private property or the property of the commonwealth, shall be subject to the following conditions, whether they are expressed in the act, resolve or license granting the same or not: such authority or license shall be revocable at the discretion of the general court, and shall expire in five years from its date, except as to valuable structures, fillings or enclosures actually and in good faith built or made under the authority or license during the term thereof; but if compensation has been paid to the commonwealth under the provisions of section twenty-four or under any similar provision of law, the rights and privileges for which it has been paid shall not so terminate or be revoked unless provision is made for repayment of such compensation.

— how to be construed, etc. 1869, 432, §§ 1, 2. P. S. 19, § 13. 1885, 344, § 4. 1888, 318, § 5.

SECTION 22. No license or other authority to build structures upon or to fill up or enclose any such ground shall be construed to interfere with or impair the right of any person affected thereby to equal proportional privileges of approaching low water mark or one hundred rods from high water mark, or harbor lines established by law, or to impair the right to obtain a license or authority so to approach of persons having interests in lands or flats which may be affected thereby, or to impair the legal rights of any person. All things done under such license or authority shall be subject to the approval of said board. If the general court establishes a harbor line within the outer line covered by such license or authority, the same shall be limited by and not extend beyond such harbor line. The provisions of this section, so far as may be, shall apply to licenses granted under the provisions of the preceding section to erect structures on great ponds.

Compensation for tide water displaced.

SECTION 23. The amount of tide water which is displaced by any structure below high water mark, or by any filling of flats, shall

be ascertained by the board, which shall require the persons who cause such displacement to make compensation therefor by excavating, under its direction, between high and low water mark in some part of the same harbor a basin for a quantity of water equal to that displaced; or by paying in lieu of such excavation an amount assessed by said board, not exceeding thirty-seven and one-half cents per cubic yard of water displaced; or by improving the harbor in any other manner satisfactory to the board; and the money shall be paid into the treasury of the commonwealth, and be reserved as a compensation fund for such harbor. The income thereof may be used under the direction of the board for the improvement of the harbor. An assessment for tide water which has been displaced may be recovered in an action of contract in the name of the treasurer and receiver general.

1866, 149, § 4. 1872, 234. 1878, 74, §§ 1, 2. P. S. 19, §§ 14, 15.

SECTION 24. If authority or a license is granted by the general court or by said board to a person to build a wharf or other structure upon, or to fill or otherwise occupy, land in tide water, or to build or extend any structure or drive piles, fill land or make any obstruction, encroachment or excavation in, over or upon the waters of any great pond, he shall, before the work is begun, pay to the commonwealth such compensation for the rights granted in any land the title to which is in the commonwealth as shall be determined by the governor and council. The provisions of this section shall not apply to authority granted to a county, city or town for the construction, widening or maintenance of a bridge which constitutes a part of a highway.

Additional compensation when title to land is in the commonwealth. 1874, 284, §§ 1, 2. P. S. 19, § 16. 1888, 318, § 5.

SECTION 25. Every erection made and all work done within tide water, or within the waters of a great pond or outlet thereof, or on or within the banks of the Connecticut river below high water mark, which is not authorized by the general court or by said board, or is made or done in a manner not sanctioned by said board, if a license is required as hereinbefore provided, shall be considered a public nuisance. The attorney general or the district attorneys within their respective districts shall, at the request of said board, institute proceedings to enjoin or abate such nuisance, or to restrain the removal of material from any bar or breakwater of any harbor.

Unauthorized erections, etc., in tide waters to be nuisances. 1866, 149, § 5. P. S. 19, § 17. 1888, 318, § 6. 1891, 266, § 1. 108 Mass. 436. 118 Mass. 350. 119 Mass. 518. 149 Mass. 586.

SECTION 26. The provisions of this chapter shall not be construed as legalizing any structure, filling or other occupation or encroachment, made or done without authority, upon the waters in or the land under any great pond prior to the ninth day of May in the year eighteen hundred and eighty-eight, or in or upon the Connecticut river, below high water mark, prior to the thirtieth day of April in the year eighteen hundred and ninety-one, or as waiving or impairing any rights or remedies of the commonwealth or of any person relative thereto.

Unlawful existing structures not legalized. 1888, 318, § 7. 1891, 266, § 2.

SECTION 27. The provisions of this chapter relative to great ponds shall apply only to ponds which contain in their natural state more than ten acres of land, and shall be subject to any rights in such ponds which have been granted by the commonwealth.

Great ponds defined. 1888, 318, § 1.

Applications to congress for appropriations for harbors.
1866, 149, § 6.

SECTION 28. Said board may apply to congress for appropriations for the protection and improvement of any harbor in the commonwealth. P. S. 19, § 18.

CHAPTER 97.

OF WRECKS, SHIPWRECKED GOODS AND REMOVAL OF WRECKS.

SECTIONS 1–14. — Commissioners of Wrecks and Shipwrecked Goods.
SECTIONS 15–23. — Removal of Wrecks from Tide Waters.

COMMISSIONERS OF WRECKS AND SHIPWRECKED GOODS.

Commissioners of wrecks, etc., to be appointed.
C. L. 100, § 27; 161, § 2.
1814, 170, § 3.
R. S. 57, § 1.
G. S. 81, § 1.
P. S. 97, § 1.
1885, 341, § 1.
1887, 98, § 1.
106 Mass. 288.

SECTION 1. The governor, with the advice and consent of the council, may appoint commissioners of wrecks and shipwrecked goods for the commonwealth. No person shall receive a commission or exercise the office of commissioner until he has given to the treasurer and receiver general a bond, with two sureties, approved by the governor and council, in the sum of three thousand dollars for the faithful performance of his official duties. Whoever has a claim against such commissioner for a breach or neglect of his official duty may have a remedy therefor by a suit on his bond in the name of the treasurer and receiver general.

Release of surety on bond.
1885, 341, § 2.
1887, 98, § 2.

SECTION 2. A surety on the bond of such commissioner who desires to be relieved from liability thereon shall give a written notice thereof to such commissioner and to the governor and council. The notice to such commissioner shall be served by an officer authorized to serve civil process; and at the end of thirty days from the time of such service the liability of the surety for the subsequent acts of such commissioner shall cease. The officer shall forthwith transmit a certified copy of the notice, with his return thereon, to the governor and council and upon its receipt they shall require a new bond to be given by such commissioner within said thirty days. Upon his failure so to do, his commission shall be void.

Powers and duties.
1814, 170, § 1.
R. S. 57, § 2.
G. S. 81, § 2.
P. S. 97, § 2.
1885, 341, § 4.
1887, 98, § 3.

SECTION 3. A commissioner, upon receiving information of a shipwreck or of the finding of shipwrecked goods or property of any kind on any of the shores or waters of the commonwealth, or which have been brought thereto, if they are of the value of one hundred dollars or more, shall, and if they are under that value may, immediately repair to the place where they are, and if they are not in the custody of an owner, agent or other such commissioner and are of the value of one hundred dollars or more shall, and if under that value may, take charge thereof and preserve and secure the same for the owner.

Assistance, guards, etc.
1796, 88, § 2.
1814, 170, § 1.
R. S. 57, § 3.
G. S. 81, § 3.
P. S. 97, § 3.
1887, 98, § 4.

SECTION 4. The commissioner may in such case employ as many persons as he considers necessary to assist in preserving the property, may appoint guards to secure the same, and may suppress all tumults and disorders. Whoever disobeys a lawful order of the

commissioner shall forfeit not more than ten dollars for each offence, which shall be recovered in an action in the name of the commissioner, to the use of the city or town.

Inventory.
1814, 170, § 1.
R. S. 57, § 4.
G. S. 81, § 4.
P. S. 97, § 4.
1887, 98, § 5.

SECTION 5. The commissioner shall on every such occasion take an inventory of all the property which comes to his possession; and if required by the owner thereof or his agent, or by an insurance company or underwriter or other person interested therein, shall make oath to the truth thereof and deliver a copy thereof, if required, with all said property, to the owner, agent or other person lawfully authorized to receive it; but a reasonable compensation shall first be paid or secured to the commissioner for his services and expenses and for such custom house duties and other charges as he has paid or become liable to pay for such property.

Arbitration or action.
1814, 170, § 1.
R. S. 57, §§ 5, 6.
G. S. 81, §§ 5, 6.
P. S. 97, §§ 5, 6.
1887, 98, §§ 6, 7.

SECTION 6. If the commissioner and other party do not agree on the sum so due to the commissioner, the case may be submitted to arbitrators in the manner provided in chapter one hundred and ninety-four. If the parties do not agree to submit the case to arbitrators, it may be decided in an action at law, unless it is within the exclusive jurisdiction of the courts of the United States.

Pay for securing property before arrival of commissioner.
1814, 170, § 1.
R. S. 57, § 7.
G. S. 81, § 7.
P. S. 97, § 7.
1887, 98, § 8.
106 Mass. 286.

SECTION 7. The owner or other person interested in such property shall not be held to pay to any person, other than one of said commissioners, any charge for services or expenses in taking or securing the same, unless for property taken or secured before the arrival of a commissioner; in which case the commissioner shall, upon hearing all parties interested, determine the compensation to be received as aforesaid, and there shall be no appeal from his award in writing unless the whole amount demanded exceeds fifty dollars; but in such case an appeal may be taken by either party to the superior court which shall in a summary manner hear and determine the case.

Penalty for intermeddling.
1814, 170, § 1.
R. S. 57, § 8.
G. S. 81, § 8.
P. S. 97, § 8.
1887, 98, § 9.

SECTION 8. Whoever, after the arrival of the commissioner, takes, detains or intermeddles with any property shipwrecked or found as aforesaid, except under the directions of the commissioner, owner, agent or other person interested, shall forfeit not more than one thousand dollars for each offence, to the use of the commissioner, owner, agent or other person interested.

Commissioner to advertise wrecked property.
1814, 170, § 2.
R. S. 57, § 9.
G. S. 81, § 9.
P. S. 97, § 9.
1887, 98, § 10.

SECTION 9. The commissioner, as soon as may be after his arrival at the place where any wreck or goods are found, shall publish the particulars of the shipwreck and goods, with such other material facts as he ascertains; and if he neglects so to do, he shall forfeit fifty dollars to the use of the owner, agent or other person interested.

— may sell for duties.
1814, 170, § 2.
R. S. 57, § 10.
1839, 111.
G. S. 81, § 10.
P. S. 97, § 10.

SECTION 10. The commissioner may, within thirty days after taking the property into his custody, dispose of so much thereof by public auction as shall be sufficient to pay all customs duties which he has paid thereon or for which he has become liable. 1887, 98, § 11.

Commissioner may sell perishable property. 1814, 170, § 2. R. S. 57, § 11. G. S. 81, § 11. P. S. 97, § 11. 1885, 341, § 5. 1887, 98, § 12.

SECTION 11. If such property is perishable, or is damaged or is liable to be much reduced in value by keeping, or cannot be kept without great and disproportionate expense, and no owner or agent or other person interested therein appears, it may be sold at public sale at the discretion of the commissioner in charge thereof. In all other cases, such property shall, if no owner, agent or other person interested therein appears and claims it, be retained for one year, after which, if no such owner, agent or other person interested therein appears and claims it, it shall be sold by public auction, after notice given in a newspaper published in the county where the property is situated; but so much thereof as is necessary to defray the expenses incurred thereon may be sold by public auction, after notice as aforesaid, at the expiration of three months.

Proceeds payable to commonwealth, when. 1814, 170, § 2. R. S. 57, §§ 12, 14. G. S. 81, §§ 12, 14. P. S. 97, §§ 12, 14. 1885, 341, §§ 6, 7. 1887, 98, §§ 13, 15.

SECTION 12. If no owner, agent or other person interested in property sold under the provisions of the preceding section establishes his claim thereto, the commissioner shall, within sixty days after such sale, render to the treasurer and receiver general a detailed statement of the sales, under oath, with an account of all money paid by him for duties and the expenses incurred thereon; and shall pay to the treasurer the balance of such account for the use of the commonwealth; and if he neglects so to do, the treasurer and receiver general shall cause an action to be commenced therefor to the use of the commonwealth.

Compensation of commissioner. 1814, 170, § 2. R. S. 57, § 13. G. S. 81, § 13. P. S. 97, § 13.

SECTION 13. The treasurer may allow the commissioner a just compensation for services and expenses; which shall be ascertained in case of disagreement between them, in the manner provided in section six. 1887, 98, § 14.

Notice of obstructions. 1883, 260, § 8.

SECTION 14. Commissioners of wrecks and shipwrecked goods shall give immediate notice to the board of harbor and land commissioners of all shipwrecks occurring in tide waters and of any obstruction existing therein.

REMOVAL OF WRECKS FROM TIDE WATERS.

Removal of wrecks, etc., by harbor and land commissioners. 1883, 260, § 1.

SECTION 15. If a wrecked, sunken or abandoned vessel, or any unlawful or unauthorized structure or thing, is deposited in the tide waters of this commonwealth, or is suffered to remain therein, and, in the judgment of the board of harbor and land commissioners it is, or is liable to cause or become, an obstruction to the safe and convenient navigation or other lawful use of such waters, said board shall remove it or cause it to be removed.

Notice to owner of vessel. 1883, 260, § 2.

SECTION 16. If any person in the United States is known to said board as the owner of such vessel or of any interest therein, or as having or exercising any control over it as master, agent, insurer or otherwise, or as having alone or with others built, deposited or caused any other unlawful obstruction, or as owning, maintaining or using the same in whole or in part, said board shall give him notice in writing to remove such vessel or other obstruction within a time therein specified. Such notice shall be deemed a sufficient notice to all such owners and other persons if served

upon one or more of them by said board, or by its order, by delivering the same in hand, by leaving it at the usual place of business or abode or by duly mailing it to the post office address of the owner or other person upon whom it is to be served.

Removal by board after notice. 1883, 260, § 3.

SECTION 17. If such vessel or other obstruction is not removed within the time specified in such notice, and in a manner and to a place satisfactory to said board, or if no such owner or other person is known to said board upon whom notice can be served, said board may remove such vessel or other obstruction, or complete the removal thereof, or cause the removal to be made in such manner and to such place as it deems best; and the necessary cost and expenses of such removal, if not paid by some owner or other person liable therefor, shall, when certified by said board and approved by the governor and council, be paid by the commonwealth.

Liability for expense of removals. 1883, 260, § 4.

SECTION 18. The owner of a vessel or of an interest in a vessel wilfully or maliciously wrecked, sunk or abandoned as aforesaid and removed as provided in the preceding section, whether owning it when such vessel became an obstruction or at any time before such removal is completed, and all persons who have or exercise any control over such vessel or any part thereof, and the person or persons originally building, depositing or causing any other obstruction so removed, or owning, maintaining or using the same in whole or in part at the time of such removal or at any time prior thereto, shall be liable for the cost and expenses of such removal, or to repay the same when paid by the commonwealth; and it may be recovered in an action of contract brought by said board in the name of the commonwealth against such owners or other persons, or against any one of them. The attorney general and the district attorneys within their respective districts shall commence and conduct such actions. All money so repaid or recovered shall be paid into the treasury of the commonwealth. Whoever, on a judgment or otherwise, pays more than his proportion of the costs and expenses aforesaid, shall have a claim for contribution against other parties liable therefor according to their respective interests.

Vessel may be sold, when. 1883, 260, § 5.

SECTION 19. If the cost and expenses of removing a vessel or other obstruction as aforesaid are not paid or repaid by some owner or other person liable therefor within ten days after such removal has been completed, the board of harbor and land commissioners may sell such vessel or other obstruction, or the materials and appurtenances thereof, at public or private sale, and the net proceeds of such sale shall be paid into the treasury of the commonwealth and deducted from the amount to be repaid or recovered as provided in the preceding section.

Insurer liable, when. 1883, 260, § 6.

SECTION 20. An insurer of a vessel who has paid the loss thereon shall not, by reason of such insurance, be held liable to remove such vessel, or to pay the cost and expenses of such removal, unless he has exercised some act of ownership or control over such vessel or some part or appurtenance thereof or received the proceeds of the sale thereof.

Commissioner of wrecks, etc., not liable.
1883, 260, § 7.

SECTION 21. The provisions of the six preceding sections shall not affect a commissioner of wrecks and shipwrecked goods by reason of anything done by him in the performance of his official duties, but he shall, upon notice and request by the board of harbor and land commissioners, retain and apply so much of the property in his possession appertaining to a wrecked vessel, or of the proceeds thereof, as may be necessary to provide for the removal of such vessel.

Allowance for expenses.
1883, 260, § 9.

SECTION 22. Not more than five thousand dollars shall be annually appropriated, to be expended as may be necessary for the purposes of the eight preceding sections.

Application to United States for reimbursement.
1883, 260, § 10.

SECTION 23. The board of harbor and land commissioners shall make application to the government of the United States for the reimbursement of any amounts expended under the provisions of the nine preceding sections, which, in the opinion of said board, might properly be paid by the United States.

CHAPTER 98.

OF THE OBSERVANCE OF THE LORD'S DAY.

Prohibition as to Lord's day.
1760–1, 20, § 9.
1782, 23, §§ 1, 7.
1791, 58, §§ 1, 5.
1796, 89, § 1.
R. S. 50, §§ 5, 10.
1858, 151.
G. S. 84, §§ 4, 9.
P. S. 98, § 1.
1887, 391, § 1.

SECTION 1. Whoever, on the Lord's day, is present at a game, sport, play or public diversion, except a concert of sacred music, or an entertainment given by a religious or charitable society the proceeds of which, if any, are to be devoted exclusively to a charitable or religious purpose, shall be punished by a fine of not more than five dollars for each offence. 1895, 434, § 1.

—of labor, etc., except works of necessity, etc.
C. L. 133, §§ 1, 2.
1692–3, 22, § 1.
1716–7, 13, § 1.
1727–8, 5, §§ 1, 4.
1760–1, 20, §§ 2, 9.
1782, 23, § 1.
1791, 58, § 1.
1796, 89, § 1.
R. S. 50, § 1.
G. S. 84, § 1.
1862, 152.
1863, 143.
P. S. 98, § 2.
1895, 434, § 2.
12 Met. 24.

SECTION 2. Whoever, on the Lord's day, keeps open his shop, warehouse or workhouse, or does any manner of labor, business or work, except works of necessity and charity, or takes part in any sport, game, play or public diversion, except a concert of sacred music or an entertainment given by a religious or charitable society the proceeds of which, if any, are to be devoted exclusively to a charitable or religious purpose, shall be punished by a fine of not more than fifty dollars for each offence; and the proprietor, manager or person in charge of such game, sport, play or public diversion, except as aforesaid, shall be punished by a fine of not less than fifty nor more than five hundred dollars for each offence.

13 Met. 284.
2 Cush. 556.
4 Cush. 243.
10 Cush. 257.
8 Gray, 384, 553.
11 Gray, 308.
15 Gray, 433.
9 Allen, 118, 452.
10 Allen, 18.
11 Allen, 209.
12 Allen, 187.
13 Allen, 559.
97 Mass. 45, 166, 407, 411.
101 Mass. 30, 366.
103 Mass. 188.
107 Mass. 251, 439.
108 Mass. 517.
112 Mass. 368, 467.
117 Mass. 142.
127 Mass. 123.
128 Mass. 148.
131 Mass. 546.
143 Mass. 28, 167.
144 Mass. 362, 363.
145 Mass. 99, 353.
155 Mass. 543.
159 Mass. 101.
168 Mass. 519.
170 Mass. 561.
125 U. S. 555.

Certain business not prohibited.
1886, 82.
1887, 391, § 2.
1893, 41.
1895, 434, § 2.
1900, 440.
1901, 80.

SECTION 3. The provisions of the preceding section shall not be held to prohibit the manufacture and distribution of steam, gas or electricity for illuminating purposes, heat or motive power, nor the distribution of water for fire or domestic purposes, nor the use of the telegraph or the telephone, nor the retail sale of

drugs and medicines, nor articles ordered by the prescription of a physician or mechanical appliances used by physicians or surgeons, nor the retail sale of tobacco in any of its forms by licensed innholders, common victuallers, druggists and newsdealers whose stores are open for the sale of newspapers every day in the week, nor the letting of horses and carriages or of yachts and boats, nor the running of steam ferry boats on established routes, nor the running of street railway cars, nor the preparation, printing and publication of newspapers, nor the sale and delivery of newspapers, nor the wholesale or retail sale and delivery of milk, nor the transportation of milk, nor the making of butter and cheese, nor the keeping open of public bath houses, nor the making or selling by bakers or their employees, before ten o'clock in the morning and between the hours of four o'clock and half past six o'clock in the evening, of bread or other food usually dealt in by them, nor the carrying on of the business of bootblacks before eleven o'clock in the forenoon.

145 Mass. 430. 149 Mass. 68. 176 Mass. 5, 104.

SECTION 4. Whoever conscientiously believes that the seventh day of the week ought to be observed as the Sabbath, and actually refrains from secular business and labor on that day, shall not be liable to the penalties of section two for performing secular business and labor on the Lord's day if he disturbs no other person.

Observance of Saturday as Sabbath. R. S. 50, § 10. G. S. 84, § 9. P. S. 98, § 13. 1887, 391, § 3. 122 Mass. 40. 143 Mass. 28.

144 Mass. 359.

SECTION 5. The provisions of the preceding sections shall not be held to prohibit the giving, being present at, or taking part in, on the Lord's day, a concert of sacred music or an entertainment given by a religious or charitable society the proceeds of which, if any, are to be devoted exclusively to a charitable or religious purpose, or a free open air concert given by a city or town, or by license of the mayor and aldermen of a city or the selectmen of a town, upon a common, public park, street or square.

Certain entertainments not prohibited. 1895, 434, § 4.

SECTION 6. Whoever, keeping a house, shop, cellar or place of public entertainment or refreshment, entertains therein on the Lord's day any persons other than travellers, strangers, or lodgers, or suffers such persons on said day to abide or remain therein, or in the yards, orchards, or fields appertaining to the same, drinking or spending their time idly or at play, or in doing any secular business, shall be punished by a fine of not more than fifty dollars for each person so entertained or suffered so to abide or remain; and upon subsequent conviction, by a fine of not more than one hundred dollars; and if convicted three times, he shall thereafter be disqualified to hold a license.

Persons keeping places of entertainment, etc., to entertain only travellers, etc. 1692-3, 22, § 3. 1698, 10, § 4. 1727-8, 5, § 3. 1760-1, 20, § 4. 1782, 23, §§ 4, 7. 1791, 58, § 3. 1796, 89, § 1. 1832, 166, § 5. R. S. 47, § 13; 50, § 3. 1837, 242, § 1. 1844, 160. G. S. 84, § 3.

1864, 79. P. S. 98, § 4. 2 Pick. 139.

SECTION 7. An innholder or other person who, being licensed to keep a place of public entertainment, entertains or suffers to remain or be in his house, yard or other places appurtenant, any persons other than travellers, strangers or lodgers in such house, drinking and spending their time there, on the Lord's day, or on the evening preceding the same, shall be punished by a fine of not more than five dollars for each offence.

Innholders not to entertain persons on Sunday, or Saturday evening, except. 1791, 58, § 5. R. S. 50, § 6. G. S. 84, § 5. P. S. 98, § 5.

Writs, etc., not to be served on Lord's day.
1782, 23, § 11.
1791, 58, § 9.
R. S. 50, § 7.
G. S. 84, § 6.

SECTION 8. A civil process shall not be served or executed on the Lord's day, and such service if made shall be void, and the person who serves or executes it shall be liable in damages to the person aggrieved in like manner as if he had no such process.

P. S. 98, § 6. 140 Mass. 148.

Penalty for rude behavior.
1782, 23, § 9.
1791, 58, § 7.
R. S. 50, § 8.

SECTION 9. Whoever, on the Lord's day, behaves rudely or indecently within the walls of any house of public worship shall be punished by a fine of not more than ten dollars.

G. S. 84, § 7. P. S. 98, § 7.

Prosecutions, when to be instituted.
1815, 135.
R. S. 50, § 11.

SECTION 10. Prosecutions for penalties incurred under the preceding provisions of this chapter shall be commenced within six months after the offence was committed.

G. S. 84, § 10. P. S. 98, § 8.

Sheriffs, etc., to inform of offences.
1727–8, 5, § 5.
1791, 58, §§ 10, 12.

SECTION 11. Sheriffs, constables and grand jurors shall inquire into and inform of all offences against the provisions of this chapter, and cause the same to be enforced.

R. S. 50, § 9. G. S. 84, § 8. P. S. 98, § 9.

Penalty for discharging fire-arms, etc., on Lord's day.
1865, 253.
P. S. 98, §§ 10–12.

SECTION 12. Whoever, on the Lord's day, discharges any fire-arm for sport or in the pursuit of game, or attempts to take or catch any fish by using any hook, line, net, spear or other implement, shall be punished by a fine of not more than ten dollars. Prosecutions under the provisions of this section shall be commenced within thirty days after the time the offence was committed.

Innholders who permit implements of gaming to be used, etc.
1854, 450, § 1.
G. S. 84, § 11.
P. S. 98, § 14.

SECTION 13. Any innholder, common victualler or person keeping or suffering to be kept in any place occupied by him implements such as are used in gaming, in order that the same may for hire, gain or reward be used for purposes of amusement, who, on the Lord's day, uses or suffers to be used any such implements upon any part of his premises, shall for the first offence be punished by a fine of not more than one hundred dollars or imprisonment for not more than three months; and for each subsequent offence by imprisonment for not more than one year; and in either case shall further recognize, with sufficient sureties, in a reasonable sum for his good behavior, and especially that he will not be guilty of any offence against the provisions of this section for three months after the date of his recognizance.

Rule as to steamboat lines and trains.
1881, 119.
P. S. 98, § 15.
1887, 391, § 3.

SECTION 14. The board of railroad commissioners may authorize the running, on the Lord's day, of such steamboat lines and such trains upon any railroad, as, in the opinion of the board, the public necessity and convenience require, having regard to the due observance of the day.

— as to steamboats.
1897, 389.

SECTION 15. The board of railroad commissioners may, if in their opinion the public necessity, convenience, health or welfare so requires, authorize the running of steamboats on the Lord's day for the entire year or any part thereof, upon such conditions as they deem judicious to prevent disorderly conduct or the disturbance of public worship; and may at any time revoke such authority.

SECTION 16. The Lord's day shall include the time from midnight to midnight. "Lord's day" defined.

1782, 23, § 6. 1791, 58, § 4. 1844, 160, § 2. G. S. 84, § 12. P. S. 98, § 16.

SECTION 17. The provisions of this chapter shall not constitute a defence to an action for a tort or injury suffered by a person on the Lord's day. This chapter not a defence. 1877, 232. P. S. 98, § 3. 1884, 37.

140 Mass. 199. 165 Mass. 346. 125 U. S. 555.

CHAPTER 99.

OF GAMING.

SECTION 1. Whoever, by playing at cards, dice or other game, or by betting on the sides or hands of those gaming, loses to a person so playing or betting money or goods, and pays or delivers the same or any part thereof to the winner, or whoever pays or delivers money or other thing of value to another person for or in consideration of a lottery, policy or pool ticket, certificate, check or slip, or for or in consideration of a chance of drawing or obtaining any money, prize or other thing of value in a lottery or policy game, pool or combination, or other bet, may sue for and recover such money or goods in an action of contract; and if he does not within three months after such loss, payment or delivery, without covin or collusion, prosecute with effect for such money or goods, any other person may sue for and recover treble the value thereof in an action of tort. Recovery of money, etc., lost at gaming. 1736-7, 17, § 2. 1742-3, 27, § 2. 1785, 58, § 2. R. S. 50, § 12. G. S. 85, § 1. P. S. 99, § 1. 1895, 419, § 11. 17 Mass. 560. 3 Pick. 446. 8 Gray, 243. 1 Allen, 563. 116 Mass. 272. 133 Mass. 127, 466. 134 Mass. 150, 471. 136 Mass. 525, 564. 143 Mass. 280. 149 Mass. 124. 170 Mass. 146.

SECTION 2. The owner, tenant or occupant of a house or building in which money or goods are lost, paid or delivered in any form of gaming referred to in the preceding section, or by betting on the sides or hands of those gaming, with the knowledge or consent of said owner, occupant, or tenant, shall be liable to an action in the same manner and to the same extent as the winner or receiver thereof is liable by the provisions of the preceding section. Liability of owner of gaming house. 1837, 179. G. S. 85, § 2. P. S. 99, § 2. 1895, 419, § 12. 14 Gray, 390. 116 Mass. 272. 129 Mass. 407. 134 Mass. 150. 143 Mass. 280. 154 Mass. 348.

SECTION 3. Notes, bills, bonds, mortgages or other securities or conveyances the whole or a part of the consideration of which is money or goods won by gaming or playing at cards, dice or any other game, or by betting on the sides or hands of persons gaming, or for repaying or reimbursing money knowingly lent or advanced for gaming or betting, or lent and advanced at the time and place of such gaming or betting to a person so gaming or betting, shall be void as between the parties thereto, and as to all persons except such as hold or claim under them in good faith and without notice of the illegality of the consideration. If a mortgage or other conveyance of land is adjudged void under the provisions of this section, the land shall inure to the sole use and benefit of such person as would be then entitled thereto if the mortgagor or grantor were dead; and all grants or conveyances for preventing such land from devolving upon the person to whose use and benefit said land would so inure shall be deemed fraudulent and void. Notes, conveyances, etc., for gaming, void. 1736-7, 17, § 1. 1742-3, 27, § 1. 1785, 58, § 1. 1800, 57, § 5. R. S. 50, § 15. G. S. 85, § 4. P. S. 99, § 5. 120 Mass. 271. 151 Mass. 118.

Dealing in securities without actual sale. 1890, 437, § 2. 1901, 459, § 1. 164 Mass. 54. 168 Mass. 283. 174 Mass. 238. 177 Mass. 208, 382.

SECTION 4. Whoever upon credit or upon margin contracts to buy or sell, or employs another to buy or sell for his account, any securities or commodities, intending at the time that there shall be no actual purchase or sale, may sue for and recover in an action of contract from the other party to the contract, or from the person so employed, any payment made, or the value of anything delivered, on account thereof, if such other party to the contract or person so employed had reasonable cause to believe that said intention existed; but no person shall have a right of action under the provisions of this section if, for his account, such other party to the contract or the person so employed makes, in accordance with the terms of the contract or employment, personally or by agent, an actual purchase or sale of said securities or commodities, or a valid contract therefor.

Stolen, etc., property, recovered by whom. 1890, 437, § 3.

SECTION 5. If, in a case under the provisions of the preceding section, the money or property paid or delivered has been stolen, embezzled or fraudulently or wrongfully used by the party entitled under the provisions of said section to sue therefor, the person to whom it rightfully belongs may recover it in an action of contract in his own name.

Prima facie evidence of intent not to receive and deliver. 1890, 437, § 4. 1901, 459, § 2.

SECTION 6. In a proceeding under the provisions of the two preceding sections, the fact that the seller or the person employing another to sell for his account did not own the securities or commodities at the time of the contract of sale or at the time of the giving of the order to sell, and the fact that settlements were made without the completion of the purchase or sale of the securities and commodities bought or sold or ordered to be bought or sold, shall each be prima facie evidence that within the meaning of section four there was an intention that there should be no actual purchase or sale, and that there was reasonable cause to believe that said intention existed; and the parties liable to an action under the provisions of said section shall be jointly and severally liable.

"Securities" and "commodities" defined. 1890, 437, § 1.

SECTION 7. In the three preceding sections, the word "securities" shall include all evidences of debt or property and options for the purchase and sale thereof, shares in any corporation, joint stock company or association, bonds, coupons, scrip, rights, choses in action and other evidences of debt or property and options for the purchase or sale thereof; and the word "commodities" shall include everything movable that is bought and sold.

CHAPTER 100.

OF INTOXICATING LIQUORS.

SECTIONS 1, 2.—Definition and Sale.
SECTIONS 3–9.—Licensing Boards.
SECTIONS 10–16.—Granting of Licenses.
SECTION 17.—Conditions of Licenses.
SECTION 18.—Classes of Licenses.
SECTIONS 19, 20.—Fees for Licenses.
SECTIONS 21–29.—Druggists and Apothecaries.
SECTIONS 30–32.—Licenses to Dealers in Paints and Chemicals.
SECTION 33.—Importation in Original Package.
SECTIONS 34–41.—Regulation of Licensed Places.
SECTIONS 42–45.—Bond and Transfers of Licenses.
SECTIONS 46–90.—Penalties for Illegal Sale or Transportation. Seizure. Civil Damages.

DEFINITION AND SALE.

SECTION 1. No person shall sell, or expose or keep for sale, spirituous or intoxicating liquor, except as authorized in this chapter; but the provisions of this chapter shall not apply to sales made by a person under a provision of law which requires him to sell personal property, or to sales at wholesale, by the manufacturers thereof, of cider manufactured in this commonwealth, or to sales in any quantity by farmers who raise apples sufficient to make the cider which they sell, if it is not drunk on their premises; nor shall the provisions of this chapter apply to sales, by the makers thereof, of native wines or of cider manufactured in this commonwealth, if the cider does not contain more than three per cent of alcohol by weight at sixty degrees Fahrenheit, not to be drunk on their premises. But in cities and towns which do not vote in accordance with the provisions of section ten to authorize the granting of licenses for the sale of intoxicating liquors, native wines shall not be sold or exposed or kept for sale, except by the makers thereof on the premises where they were made and not to be drunk on said premises.

Sale regulated. C. L. 79, § 3; 84, §§ 1, 6. 1692–3, 20, § 1. 1701–2, 15, § 5. 1703–4, 5, § 5. 1786, 68, §§ 1, 4. 1830, 136, §§ 1–5. 1832, 166, §§ 1–3. R. S. 47, §§ 1, 3, 21. 1838, 157, § 1. 1850, 232, § 1. 1852, 322, § 1. 1854, 400. 1855, 215, §§ 1, 3. G. S. 86, § 29. 1868, 141, § 1. 1869, 415, §§ 30, 31. 1875, 99, § 1. P. S. 100, § 1. 1894, 489. 1901, 186, § 1. 121 Mass. 353, 374, 377. 126 Mass. 248. 128 Mass. 75, 414. 130 Mass. 68. 136 Mass. 160, 431. 137 Mass. 564.

141 Mass. 270. 143 Mass. 563. 145 Mass. 119. 149 Mass. 314. 153 Mass. 205. 160 Mass. 172, 300. 167 Mass. 553. 152 Mass. 493. 156 Mass. 233. 162 Mass. 515. 173 Mass. 252.

SECTION 2. Ale, porter, strong beer, lager beer, cider, all wines, any beverage which contains more than one per cent of alcohol, by volume, at sixty degrees Fahrenheit, and distilled spirits, shall be deemed to be intoxicating liquor within the meaning of this chapter.

Definition of intoxicating liquor. 1855, 215, § 1. G. S. 86, § 28. 1868, 141 § 21. 1869, 415 § 30.

1870, 389, § 1. 1871, 334, § 1. 1875, 99, § 18. 1880, 239, § 5. P. S. 100, § 27. 1888, 219. 119 Mass. 208. 133 Mass. 575. 149 Mass. 314. 161 Mass. 61.

LICENSING BOARDS.

SECTION 3. In each city which is not exempt by the provisions of section nine there shall be a licensing board consisting of three persons who shall be appointed by the mayor, who shall not be engaged, directly or indirectly, in the manufacture or sale of in-

Licensing board. 1875, 99, § 20. 1878, 244, § 2. P. S. 100, § 28. 1894, 428, §§ 1, 2.

1895, 379.
1896, 396.

toxicating liquors, who shall have been residents of the city in which they are appointed for at least two years immediately preceding their appointment, and who shall not hold any other public office except that of notary public and justice of the peace. One member shall be appointed from each of the two leading political parties and the third member may also be appointed from one of said parties. If any member of said board engages directly or indirectly in such manufacture or sale, his office shall immediately become vacant.

Terms of office, removals, etc.
1894, 428, § 2.
1896, 396.

SECTION 4. The terms of office of the members first appointed shall commence at the date of their appointment, and shall be so arranged as to expire at the end of two, four and six years from the first Monday in June in the year of their appointment, the date of expiration to be specified in their respective commissions; and thereafter a member shall be appointed for a term of six years from the first Monday in June of the year in which the previous term expires. All members shall hold office until their respective successors are appointed and qualified. They may be removed by the mayor for cause, after charges preferred, reasonable notice thereof, and a hearing thereon; and the mayor shall, in the order of removal, state his reasons therefor. Any member of said board may, within seven days after notice of his removal, apply to the superior court for a review of the charges, of the evidence submitted thereunder, and of the findings thereon by the mayor. Notice of the entry of such application shall be given to the mayor by serving upon him an attested copy thereof. The entry fee, costs, and all proceedings upon such application shall be according to the rules regulating the trial of civil causes. The court, after a hearing, shall affirm or revoke the order of the mayor removing such commissioner, and there shall be no appeal from his decision.

Chairman, vacancies, etc.
1894, 428, § 3.

SECTION 5. The mayor shall designate one member as chairman, who shall also act as secretary. Two members shall be a quorum for the transaction of business. If a member ceases to be a resident of the city for which he is appointed or becomes unable to perform his official duties, there shall be a vacancy in the board. All vacancies shall be filled by the mayor for the residue of the unexpired term in the manner provided for an original appointment.

Salaries, rooms, etc.
1894, 428, § 6.

SECTION 6. Each city which has such a board shall provide it with suitable rooms, properly furnished, heated and lighted, shall pay such salaries as the city council, subject to the approval of the mayor, may from time to time establish, and shall also pay all expenses incurred by said board for blank books, printing and other necessary expenses approved by said board, not exceeding one thousand dollars in any one year.

Powers, etc., to vest in mayor and aldermen, when.
1894, 428, § 7.

SECTION 7. If, at any annual city election, a city in which such board has been appointed shall not vote to authorize the granting of licenses for the sale of intoxicating liquor, all obligations imposed upon said city by the provisions of the preceding section shall cease from and after the first Monday in June next following such vote and, from and after said date, the powers and duties granted to and

imposed upon said board in respect to sixth and seventh-class licenses and licenses of innholders and common victuallers shall vest in the mayor and aldermen of said city. If said city shall, at a subsequent annual city election, again vote to authorize the granting of licenses for the sale of intoxicating liquor, the obligations imposed by the provisions of the preceding section shall be revived and shall attach to said city from and after the first day of March next following such vote and, from and after said date, the powers and duties of the mayor and aldermen relative to licenses for the sale of intoxicating liquor and licenses of innholders and common victuallers shall revest in the licensing board appointed in said city.

Record and report.
1894, 428, §§ 8, 9.

SECTION 8. Each board shall keep a record of its doings and hearings and shall make a quarterly report of its doings to the mayor. It may prescribe the forms of applications for licenses, may require any statement which may be made before it and papers which may be filed with it relative to applications for licenses to be sworn to, and for such purpose, any member may administer oaths.

Cities exempt, when.
1894, 428, § 10.

SECTION 9. The following cities are exempt from the operation of the six preceding sections: — First, Cities which have a licensing board created by special statute or under the provisions of a charter. Second, Cities which have not, at any annual city election since the year eighteen hundred and ninety-two, voted to authorize the granting of licenses for the sale of intoxicating liquors; but if any such city hereafter, at an annual city election, votes to authorize the granting of such licenses, a board shall, thereupon, in the February following, be appointed for such city as above provided, and the provisions of the six preceding sections shall thereafter apply to said city.

GRANTING OF LICENSES.

Licenses, how granted.
1875, 99, §§ 4, 20.
1878, 244, § 2.
1881, 54, §§ 1, 2.
P. S. 100, §§ 5, 28.
1885, 83; 323, § 2.
1894, 428, § 4.
1896, 397, § 10.
1897, 398, § 1.
119 Mass. 205.
126 Mass. 542.
136 Mass. 50, 433.
150 Mass. 272, 389.
176 Mass. 67.

SECTION 10. In a city which at its annual city election, or in a town which at its annual town election, votes to authorize the granting of licenses for the sale of intoxicating liquors, as hereinafter provided, licenses of the first five classes mentioned in section eighteen may be granted annually to applicants therefor by the licensing boards in cities and by selectmen in towns, and in any city or town, licenses of the sixth class and seventh class mentioned in said section may be granted annually to applicants therefor by the licensing board in cities having such boards, by the mayor and aldermen in other cities, and by the selectmen in towns. Every license shall be signed by the licensing board in cities having such boards, in other cities, by the mayor and city clerk, and in towns, by the chairman of the selectmen and town clerk, and it shall be recorded in the office of the licensing board in cities having such boards, and in other cities and towns, in the office of the city or town clerk, and the licensee shall pay the recording officer one dollar for recording the license. It shall name the person licensed, shall set forth the nature of the license and the building in which the business is to be carried on, and shall continue in force until the first day of the May next ensuing, unless sooner forfeited or rendered void. The aldermen and selectmen, respectively, shall insert in the warrant for the annual

city election or town meeting an article providing for a vote upon the question, "Shall licenses be granted for the sale of intoxicating liquors in this city [or town]?" The clerk of each city or town shall, within thirty days after such vote is taken, transmit a true statement thereof to the secretary of the commonwealth; and shall annually, in November, make a return to said secretary, showing the number of licenses of each class issued, the amount received for the same by classes and the number revoked if any.

See c. 11, §§ 197, 344, 351.

Powers and duties.
1894, 428, § 5.

SECTION 11. The licensing board shall certify to the city clerk, the city treasurer and the chief of police or city marshal the name of each applicant for a license, the name of each person to whom a license is issued, the date when each license goes into effect, the premises on which it is to be exercised, the class of the license, each change of location by a licensee, and each transfer of a license ordered by it.

Applications for licenses, when receivable.
1883, 93.

SECTION 12. The licensing board of a city or town which has voted to authorize the granting of licenses for the sale of intoxicating liquor may, during March and April, receive applications for such licenses, publish, investigate and act thereon, and may, in April, grant such licenses, to take effect on the first day of May following.

Number of licenses limited.
1888, 340.
1892, 280.
1896, 440.
1899, 248, 341, 462.
167 Mass. 290.

SECTION 13. In cities and towns which vote to authorize the granting of licenses for the sale of intoxicating liquors, the number of places licensed for the sale of such liquors shall not exceed one for each one thousand of the population as ascertained by the last preceding national or state census, but one such place may be licensed in any town having a population of less than one thousand. In Boston, one such place may be licensed for each five hundred of the population, but in no event shall the total number of licensed places therein exceed one thousand. No more than one such place shall be licensed by any one vote of the licensing board. Such licenses shall be numbered in regular order as granted, and any license granted contrary to, or in excess of, the provisions of this section shall be void; but in a town voting as aforesaid at its last annual town meeting which has less than five thousand permanent residents according to the last preceding state or national census but has an increased resident population during the summer months, the selectmen may, on or before the fifteenth day of May in any year, apply to the chief of the bureau of statistics of labor to have an enumeration made of the temporary or summer residents of such town. Said chief shall thereupon make such enumeration, between the twenty-third and the twenty-eighth day of June next following, under such rules as he shall establish. A person who has not been a resident of such town for at least three days preceding the enumeration shall not be regarded as a temporary or summer resident thereof. Said chief may employ, for such enumeration, such persons as may be necessary, who shall in all cases be residents of the town if suitable and competent persons can be found; otherwise, non-residents may be employed. The chief shall report the total number of such temporary or summer residents to the selectmen of the town on or before said twenty-

eighth day of June. The expenses incurred in making such special enumeration shall be paid by the commonwealth. The treasurer and receiver general shall thereupon issue his warrant, as provided in section thirty-four of chapter twelve, requiring the assessors of such town to assess a tax to the amount of the expense incurred in making this special enumeration, and such amount shall be collected and paid over to the treasurer and receiver general in the same manner as other state taxes. The selectmen may, in April, receive applications for such licenses and investigate and publish the same; and may grant one such license for each five hundred of such temporary resident population, not including the permanent inhabitants of such town, as ascertained by said special enumeration, to take effect on the first day of July and to expire on the first day of October next following. A selectman, member of a licensing board or census enumerator who violates any provision of this section shall be punished by a fine of five hundred dollars.

Notice of application for license to be published.
1881, 255, § 1.
P. S. 100, § 6.
1882, 222.
1885, 323, § 2.
1894, 428, § 4.
136 Mass. 50.
138 Mass. 346.
176 Mass. 67.

SECTION 14. Notice of all applications for licenses shall, at the expense of the applicant, to be paid in advance, be published in the following manner: in the city of Boston, by the licensing board in two or more daily newspapers published therein; and in the Charlestown, East Boston, South Boston, Dorchester, Roxbury, West Roxbury and Brighton districts of said city, respectively, in at least one weekly newspaper published in the district in which the premises for which the license is asked are situated, if any is there published; in other cities having licensing boards, by said boards, and in other cities and towns, by the mayor and aldermen and the selectmen, respectively, in such newspapers, printed therein and published at least once a week, as they may designate; or if no such newspaper is printed therein, then by posting such notice in a conspicuous place on the premises described in the application for the license, and in two or more places in which public notices are usually posted in the neighborhood. Such notice shall set forth the name of the applicant in full, the class of the license applied for, a particular description of the premises on which the license is to be exercised, designating the building or part of a building to be used, and, if practicable, the street and number, and shall be published at least ten days before the licensing board acts thereon. If a license is granted without such previous publication, any citizen of the city or town within which such license is issued may make complaint to the police, district or municipal court, or the trial justice having jurisdiction therein; and if, after due hearing, it appears that such notice was not given, the court or justice shall revoke the license and give notice thereof to the board which issued it.

Adjoining owner may object.
1881, 255, § 2.
P. S. 100, § 7.
1887, 323.
138 Mass. 344.
176 Mass. 67.

SECTION 15. If before the expiration of the ten days following the publication of the notice, as required by the preceding section, the owner of any real estate within twenty-five feet of the premises described in an application for a license to be exercised by a common victualler to sell liquors to be drunk on the premises notifies the licensing board in writing that he objects to the granting of the license, no license to sell intoxicating liquors to be drunk on said premises shall be granted. If, after such objection has been filed,

a license is granted, the owner of any such real estate may apply for a hearing to a police, district or municipal court or trial justice within whose jurisdiction the premises are situated; and said court or trial justice, if it appears that due notice was given by the said owner of his objection to the granting of such license, shall revoke the license and send notice thereof to the licensing board. A city or town in which such license has been so revoked shall refund to said licensee or his legal representatives the money expended by him for said license and his court fees and costs.

Licenses may be refused to unfit persons.
1875, 99, § 5.
P. S. 100, § 8.
127 Mass. 140.

SECTION 16. The licensing board may at any time refuse to issue a license to a person whom it considers unfit to receive the same; but the provisions of this chapter shall not be so construed as to compel said licensing board to grant licenses.

CONDITIONS OF LICENSES.

—conditions of.
1875, 99, § 6.
P. S. 100, § 9.

SECTION 17. Each license shall be expressed, to be subject to the following conditions: —

First, That the provisions in regard to the nature of the license, and the building in which the business may be carried on under it, shall be strictly adhered to.

1885, 90.
138 Mass. 490.
140 Mass. 289.
145 Mass. 244.
177 Mass. 221.

Second, That spirituous or intoxicating liquor shall not be sold between the hours of eleven at night and six in the morning or on the Lord's day; but if the licensee is also licensed as an innholder he may, between the hours of six in the morning and eleven at night on the Lord's day, supply such liquors to guests who have resorted to his inn for food or lodging.

1896, 272.

Third, That spirituous or intoxicating liquor shall not be sold, exchanged or delivered, or exposed, offered or kept for sale, exchange or delivery, upon the licensed premises, unless it is of good standard quality and is free from any adulteration prohibited in the Pharmacopœia of the United States or by the laws relative to adulteration of drugs and food, for either a food or a drug. If it is marked, labelled or represented as being the product of any foreign country, it shall also be of the standard quality required for its legal sale for domestic use in the country of its reputed production. All such liquors which are sold, exchanged or delivered, or which are exposed or kept for sale, exchange or delivery, under a license of the sixth class, shall be of the quality required for their sale as drugs under the provisions of the laws relative to the adulteration of drugs and food.

1880, 239, § 3.
1884, 158.
1901, 87.
143 Mass. 95, 132.
145 Mass. 311.
155 Mass. 284.

Fourth, That liquor shall not be sold or delivered on the licensed premises to a person who is known to be a drunkard, to an intoxicated person, or to a person who is known to have been intoxicated within the six months last preceding, or to a minor, either for his own use, the use of his parents or of any other person, or, unless upon the prescription of a duly registered physician, to a person known to have been supported in whole or in part by public charity at any time during the twelve months last preceding the date of the license.

1891, 369.

Fifth, That there shall be no disorder, indecency, prostitution, lewdness or illegal gaming on the licensed premises or on any premises connected therewith by an interior communication.

Sixth, That the license, or a copy thereof certified by the recording officer of the licensing board or by the clerk of the city or town by which it is issued, shall be displayed on the premises, in a conspicuous position, where it can easily be read.

Seventh, That the license shall be subject to forfeiture, as herein provided, for breach of any of its conditions; and that, if the licensee is convicted of a violation of any of such conditions, his license shall thereupon become void.

Each license of the first five classes shall be subject to the further condition that the licensee shall not sell, give away or deliver on the licensed premises any intoxicating liquors on a legal holiday as defined in section five of chapter eight or on any day on which a national, state, city or annual town election is held in the city or town in which the licensed premises are situated, except the day of an election in a city if such election is not required to be held in the ward in which the licensed premises are situated; but this condition shall not apply to a wholesale druggist who, on the day of an election as aforesaid, sells, gives away or delivers intoxicating liquors on the licensed premises, nor to an innkeeper who sells, gives away or delivers in his inn any intoxicating liquor to a guest who has resorted to his inn for food or lodging; but an innkeeper shall not upon such holiday sell, give away or deliver intoxicating liquor in his inn under a fourth or fifth class license. 1880, 239, § 1. 1888, 254, 262. 1889, 361. 1891, 369. 1893, 417, § 9. 1894, 130, § 5. 1895, 337. 1896, 162, § 2; 308. 1897, 160. 1898, 548, § 6. 152 Mass. 508.

Each license of the first three classes shall be subject to the further condition that the licensee shall hold a license as an innholder or common victualler and that he shall not serve any spirituous or intoxicating liquor at a table or tables in any room in which the exclusive or principal business carried on is the sale of such liquors. 150 Mass. 188.

Each license of the first three classes issued to a common victualler shall specify the room or rooms in which such liquor shall be kept or sold, and the holder of such license shall not keep, sell or deliver any such liquors in any room or part of a building not so specified. 1891, 369. 147 Mass. 374. 150 Mass. 188, 272.

Each license of the second, third, fifth or seventh class shall be subject to the further condition that no spirituous or intoxicating liquors except those the sale of which is allowed by the license shall be kept on the licensed premises. 1891, 369.

CLASSES OF LICENSES.

SECTION 18. Licenses shall be of the following classes: — Licenses to be of seven different classes. 1868, 141, § 4; 311, § 4. 1875, 99, § 7. P. S. 100, § 10.

First class. To sell liquors of any kind, to be drunk on the premises.

Second class. To sell malt liquors, cider and light wines containing not more than fifteen per cent of alcohol, to be drunk on the premises.

Third class. To sell malt liquors and cider, to be drunk on the premises.

Fourth class. To sell liquors of any kind, not to be drunk on the premises.

Fifth class. To sell malt liquors, cider and light wines containing not more than fifteen per cent of alcohol, not to be drunk on the premises.

1878, 203, § 1. 1896, 397, § 13. 155 Mass. 273. 156 Mass. 253.

Sixth class. Licenses to retail druggists and apothecaries to sell liquors of any kind for medicinal, mechanical or chemical purposes only, and to such persons only as may certify in writing for what use they want them.

1897, 398, § 1.

Seventh class. Licenses to dealers in paints or in chemicals to sell alcohol for mechanical, manufacturing or chemical purposes only.

FEES FOR LICENSES.

Fees for licenses. 1875, 99, § 8. P. S. 100, § 11. 1888, 341.

SECTION 19. The fees for licenses shall be as follows: —

For a license of the first class, not less than one thousand dollars.

For a license of the second or third class, not less than two hundred and fifty dollars.

For a license of the fourth class, not less than three hundred dollars.

For a license of the fifth class, not less than one hundred and fifty dollars.

1878, 203, § 1. 1897, 398, § 1.

For a license of the sixth class or seventh class, one dollar.

Refunding fee on death of licensee. 1897, 227, § 1.

SECTION 20. If a licensee dies before the expiration of the term of his license, the city or town by which it was granted may refund to his executor or administrator a part of the license fee, proportionate to the unexpired term of the license, and a proportionate part of the percentage which has been paid to the commonwealth shall be refunded to the city or town.

DRUGGISTS AND APOTHECARIES.

Sale by druggists. 1875, 99, § 2. P. S. 100, § 2. 1887, 431, § 2. 1896, 397, § 10. 147 Mass. 161.

SECTION 21. Druggists and apothecaries may sell pure alcohol for medicinal, mechanical or chemical purposes; and wholesale druggists and apothecaries may also sell liquor of any kind, not to be drunk on the premises, under a license of the fourth class.

Licenses to druggists. 1887, 431, § 1. 1896, 397, § 10. 1900, 106. 136 Mass. 50. 155 Mass. 273.

SECTION 22. No license for the sale of spirituous or intoxicating liquor, except of the sixth class, shall be granted to retail druggists or apothecaries. One or more licenses of the sixth class shall be granted annually by the licensing board of cities, or by the mayor and aldermen of cities having no such board, or by the selectmen of towns, to retail druggists or apothecaries who are registered pharmacists actively engaged in business on their own account, upon presentation to the licensing board of the certificate of fitness prescribed by the following section, if it appears that the applicant is a proper person to receive such license, and is not disqualified to receive it under the provisions of sections fifty-three and fifty-four. A registered pharmacist who owns stock of the actual value of at least five hundred dollars in a corporation which has been incorporated for the purpose of carrying on the drug business, and who conducts in person the business of a store of such corporation, shall be considered as actively engaged in business on his own account and as qualified to receive a license for such store.

Certificate of fitness for license. 1889, 270. 1894, 435. 1896, 397, § 11.

SECTION 23. The board of registration in pharmacy may, upon the payment by an applicant for a license of the sixth class of a fee of not more than one dollar, issue to him a certificate, which

shall not be valid after one year from its date, stating that in the judgment of said board he is a proper person to be entrusted with such license and that the public good will be promoted by the granting thereof. Any registered pharmacist against whom no complaints have been made to said board may be considered a proper person to receive such certificate. If complaint is made, it shall state in writing the reason why a certificate should be withheld.

License to be void, when.
1893, 472, § 5.
1896, 397, § 12.

SECTION 24. A license of the sixth class shall become null and void without any process or decree, if the registered pharmacist to whom it has been granted ceases to conduct his business in person and on his own account, or upon the revocation of his certificate of registration as a pharmacist, unless the registered pharmacist has become unable to so conduct his business or has died, and his business is continued by his wife, widow, executor or administrator under another registered pharmacist.

Sale only on certificate.
1838, 157, § 2.
1855, 215, § 2.
G. S. 86, § 26.
1869, 415, § 28.
1870, 389, § 4.
1875, 99, § 2.
P. S. 100, § 2.
1887, 431, §§ 1, 2.
1896, 397, §§ 10, 13.
147 Mass. 161.
148 Mass. 160.
156 Mass. 233.

SECTION 25. Retail druggists and apothecaries shall not sell intoxicating liquor of any kind for medicinal, mechanical or chemical purposes except upon the certificate of the purchaser, which shall state the use for which it is wanted, and which shall be immediately cancelled at the time of sale in such manner as to show the date of cancellation. They shall not, when making such sales upon the prescription of a physician, be subject to the provisions of the second clause of section seventeen. 158 Mass. 482, 499.

Entry book for sales of liquor.
1855, 215, § 2.
G. S. 86, § 26.
1869, 415, § 28.
1872, 271.
1878, 203, § 2.
P. S. 100, § 3.
1887, 431, § 3.
1896, 397, § 14.
1901, 91.
155 Mass. 291.

SECTION 26. Every retail druggist and apothecary shall keep a book in which he shall enter, at the time of every such sale, the date thereof, the name of the purchaser, the kind, quantity and price of said liquor, the purpose for which it was sold, and the residence by street and number, if there be such, of said purchaser. If such sale is made upon the prescription of a physician, the book shall also contain the name of the physician and shall state the use for which said liquor is prescribed and the quantity to be used for such purpose, and shall be cancelled in the manner before provided with reference to certificates. Said book shall be in form substantially as follows: —

Date.	Name of Purchaser.	Residence.	Kind and Quantity.	Purpose of Use.	Price.	Name of Physician.

The certificate mentioned in the preceding section shall be a part of said book and shall not be detached therefrom, and shall be in form substantially as follows: —

CERTIFICATE.

I wish to purchase_____
and I certify that I am not a minor and that the same is to be used for * Mechanical * Chemical * Medicinal purposes. [* *Draw a line through the words which do not indicate the purpose of the purchase.*]

O Signature_____

Cancelled,_____

Books open to inspection.
1855, 215, § 2.
G. S. 86, § 26.
1869, 415, § 28.
1872, 271.
1878, 203, § 2.
P. S. 100, § 3.
1887, 431, § 4.
1896, 397, § 15.
1897, 398, § 4.

SECTION 27. The book, certificates and prescriptions provided for in the two preceding sections and the book provided for in section thirty-two shall at all times be open to the inspection of the licensing board in cities having such boards and in all other cities and towns, to the inspection of the mayor and aldermen, selectmen, overseers of the poor, sheriffs, constables, police officers and justices of the peace.

Penalty for false certificate.
1887, 431, § 5.
1896, 397, § 16.

SECTION 28. Whoever makes or issues a false or fraudulent certificate or prescription referred to in sections twenty-five and twenty-six shall be punished by a fine of ten dollars.

— for sale of liquor in name of pharmacist.
1893, 472, § 4.
1896, 397, § 17.

SECTION 29. Whoever, not being a registered pharmacist, procures a sixth class license for the sale of intoxicating liquors in the name of a registered pharmacist who is dead, or in the name of a registered pharmacist by borrowing, hiring or purchasing the use of his certificate, and who, being himself the owner or manager of the place, shall himself or by his servants sell intoxicating liquor, shall be punished by a fine of not less than fifty nor more than five hundred dollars, and by imprisonment for not less than one nor more than six months. The provisions of section ten of chapter two hundred and twenty shall not apply to such sentence.

LICENSES TO DEALERS IN PAINTS AND CHEMICALS.

Licenses to dealers in paints, etc.
1897, 398, § 1.

SECTION 30. The licensing board, the mayor and aldermen of a city having no licensing board or the selectmen of a town may annually grant a license of the seventh class, for the sale of pure alcohol for mechanical, manufacturing or chemical purposes only, to a dealer in paints or in chemicals who applies therefor, if it appears that the applicant is a proper person to receive such license and that he is actually carrying on business as a dealer in paints or in chemicals.

— void, when.
1897, 398, § 2.

SECTION 31. A license of the seventh class shall become null and void without any process or decree if the licensee ceases to carry on the business of dealing in paints or in chemicals.

Entry book for sales.
1897, 398, § 3.
See § 27.

SECTION 32. Every dealer in paints or in chemicals to whom such license is granted shall keep a book in which he shall enter, at the time of every sale of alcohol, the date thereof, the name and residence of the purchaser, his residence by street and number, if there be such, the quantity and price of the alcohol sold, and the purpose for which it is to be used. Said book shall be in form substantially as follows: —

Date.	Name of Purchaser.	Residence, giving Street and Number, if there be such.	Quantity.	Price.	Purpose of Use.

IMPORTATION IN ORIGINAL PACKAGE.

SECTION 33. Importers of liquor of foreign production which is imported under authority of the laws of the United States may own, possess, keep or sell such liquor in the original casks or packages in which it was imported and in quantities not less than those in which the laws of the United States require such liquor to be imported, and, when sold, it shall be as pure and unadulterated as when imported.

Original package.
1852, 322, § 14.
1855, 215, §§ 2, 4.
G. S. 86, § 25.
1869, 415, § 27.
1875, 99, § 3.
P. S. 100, § 4.
156 Mass. 240.
135 U. S. 100.

REGULATION OF LICENSED PLACES.

SECTION 34. The board which grants a license may require the licensee to close permanently all entrances to the licensed premises except those from the public street or streets upon which such premises are situated, and may so specify in the license. In such case, the construction or opening of any such entrance shall of itself make the license void. The board shall require the licensee to remove any screen, blind, shutter, curtain, partition, or painted, ground or stained glass window, or any other obstruction which may interfere with a view of the interior of the licensed premises. The licensee shall not place or maintain, or permit to be placed or maintained, upon any premises used by him for the sale of spirituous or intoxicating liquor under the provisions of his license, any screen, blind, shutter, curtain, partition, or painted, ground or stained glass window, or any other obstruction, nor expose in any window upon said premises any bottle, cask or other vessel containing, or purporting to contain, intoxicating liquor, in such a way as to interfere with a view of the business conducted upon the premises or with a view of the interior of said premises, and the placing or maintaining of any of said obstructions shall of itself make the license void.

Entrances and screens on licensed premises regulated.
1880, 239, § 2.
1881, 225.
P. S. 100, § 12.
1882, 259, § 1.
133 Mass. 192, 404.
134 Mass. 197.
140 Mass. 441, 447.
141 Mass. 30, 58, 321.
143 Mass. 92.
145 Mass. 244.
150 Mass. 320.
158 Mass. 200.

SECTION 35. No license of the first, second or third class shall be granted for the sale of intoxicating liquors in any building or place on the same street as, and within four hundred feet of, any building occupied in whole or in part by a public school; but the provisions of this section shall not prevent the granting of such license to be exercised on premises fitted up and occupied as a place for selling liquor under a license and by a licensee of a corresponding class of the preceding year although said premises are within four hundred feet of a building used temporarily in whole or in part for school purposes, if such use will cease permanently within one year after the granting of said license.

License of premises near public school forbidden.
1882, 220.
1894, 129.
134 Mass. 206.
137 Mass. 572, 574.
142 Mass. 573.
160 Mass. 528.

SECTION 36. No license of the first five classes shall be granted to be exercised in a dwelling house. A license so granted shall be void, but the provisions of this section shall not prevent the granting of a license to be exercised in a store or shop which has no interior connection or means of communication with a dwelling or tenement of any family.

— of dwelling house forbidden.
1888, 139, § 1.
150 Mass. 270.

SECTION 37. No license of the first five classes shall be granted to be exercised in any room or shop having any interior connection

— of store communicating with dwelling

house forbidden. 1888, 139, § 2.

or means of communication with a dwelling or tenement of any family, and the opening or maintaining of any such connection or means of communication shall render the license void.

License to sell in public parks. 1897, 207, § 1.

SECTION 38. No licenses for the sale of spirituous or intoxicating liquors shall be granted to be exercised in public parks, pleasure grounds or reservations.

Sales prohibited in times of riot. 1887, 365.

SECTION 39. The mayor of a city and the selectmen of a town may, in cases of riot or great public excitement, order persons who hold licenses of the first three classes not to sell, give away or deliver any intoxicating liquor on the licensed premises for a period not exceeding three days at any one time. Whoever, himself or by his agents or servants, sells, gives away or delivers any intoxicating liquor in violation of an order given under the provisions of this section shall be punished by a fine of two hundred dollars for each offence, and upon conviction, his license shall become null and void.

Hours of closing for common victuallers. 1882, 242, § 1.

SECTION 40. A common victualler who holds a license under the provisions of this chapter shall keep the licensed premises closed between the hours of twelve at night and five in the morning.

Sales on holidays forbidden. 1888, 254. 1889, 347. 1894, 130, § 5. 1895, 337. 1896, 162, § 2; 308. 1897, 160. 152 Mass. 508.

SECTION 41. A common victualler who holds a license of the first three classes and any person who holds a license of the fourth or fifth class shall not sell, give away or deliver any intoxicating liquor on the licensed premises on any legal holiday as defined in section five of chapter eight, and an innkeeper who holds a license of the first three classes shall not, on any of said days, sell, give away or deliver any intoxicating liquor in his inn except to guests who have resorted to his inn for food or lodging.

BOND AND TRANSFERS OF LICENSES.

Payment of fee and bond. 1875, 99, § 9. P. S. 100, § 13. 1882, 259, § 2. 1885, 85; 323, § 2. 1888, 283. 1894, 428, § 4. 127 Mass. 497. 144 Mass. 356. 157 Mass. 333. 177 Mass. 197.

SECTION 42. A license shall not be issued until the license fee has been paid to the treasurer of the city or town by which it is to be issued, nor until he has received a satisfactory bond, payable to him as such treasurer, in the sum of one thousand dollars, signed by the licensee and sufficient surety or sureties, who shall be jointly and severally liable, and conditioned for the payment of all costs, damages and fines which may be incurred by a violation of the provisions of this chapter. Separate actions may be brought on such bond by any person at his own expense. Such bond, after approval, shall be filed in the office of the city or town clerk, and a certified copy thereof shall be admissible in evidence. No such bond shall be accepted or approved until each surety has made and subscribed a statement under oath that he is worth not less than two thousand dollars over and above all liabilities and indebtedness, and the statement so made shall designate sufficient property, real or personal, to cover the requirement of the bond and shall be kept on file with the bond in connection with which said statement is made. The bond to be taken in each case may be in the following form: —

KNOW ALL MEN BY THESE PRESENTS, that we, A. B., of , as principal, and C. D. and E. F., of , as sureties, are held and firmly bound unto the treasurer of the city (or town) of , in the sum of one thousand dollars, to which payment well and truly to be made we bind ourselves and our legal representatives.

Sealed with our seals this day of , A.D. 19 .

The condition of this obligation is such, that whereas the above bounden A. B. has this day been licensed by License No. , by the mayor and aldermen (board of police or licensing board) of the city of (or the selectmen of the town of) , in the county of , now if the said A. B. shall well and truly comply with all the provisions of law under which said license is issued, and shall also pay all damages incurred by violation of such provisions of law, then this bond shall be void; but otherwise in force.

Executed in presence of

SECTION 43. No person, except a corporation organized for the purpose of acting as surety on bonds and duly qualified to do business in this commonwealth, shall be accepted as surety upon more than ten bonds which may be given under the provisions of the preceding section. Each surety, except as aforesaid, shall make a written statement, under oath, that he is not a surety upon more than nine other bonds given under the provisions of said section, and such statement shall be kept on file with the bond.

Sureties on bonds of licensees. 1894, 388. 1896, 169.

SECTION 44. Licensing boards may transfer licenses from one location to another within the city or town in which such licenses are in force; but such transfer shall be granted only to the original licensee, and like notice shall be given, the same provisions shall apply, and other proceedings shall be the same as are required upon the granting of licenses, except that no new license fee shall be required.

Transfer of licenses. 1889, 344.

SECTION 45. The treasurer of a city or town shall, within thirty days after the receipt of money for licenses for the sale of intoxicating liquors, make a return of the amount thereof to the treasurer and receiver general and at the same time shall pay to him one-fourth of the amount so received, and for neglect thereof he shall pay interest at the rate of six per cent per annum on the amount of such receipts from the time they become due until they are paid.

Proportion of fees to be paid to commonwealth. 1868, 141, § 12. 1875, 99, § 10. P. S. 100, § 14. 1897, 233. 1898, 361.

PENALTIES FOR ILLEGAL SALE OR TRANSPORTATION. SEIZURE. CIVIL DAMAGES.

SECTION 46. The licensing board of a city, the selectmen of a town, or any police officer or constable specially authorized by either of them, may at any time enter upon the premises of a person who is licensed under the provisions of this chapter, to ascertain the manner in which such person conducts his business and to preserve order. Such police officer or constable may at any time take samples for analysis from any liquors kept on such premises, and the vessel or vessels containing such samples shall be sealed on the premises by the seal of the vendor, and shall remain so sealed until presented to the assayer for analysis. The city or town shall pay for the samples so taken, if such liquors are found to be of good quality and free from adulteration.

Entry on licensed premises for examination. 1868, 141, § 14. 1875, 99, § 11. P. S. 100, § 15. 126 Mass. 269.

Forfeiture of license.
1868, 141, §§ 9, 19.
1875, 99, §§ 12, 20.
1878, 244, § 2.
P. S. 100, § 16.
1885, 323, § 2.
1894, 428, § 4.
119 Mass. 110.
128 Mass. 76.
145 Mass. 216.
163 Mass. 472.

SECTION 47. The licensing board, after notice to the licensee and reasonable opportunity for him to be heard by them or by a committee of the mayor and aldermen or selectmen, if the license was granted by them, may declare his license forfeited, upon satisfactory proof that he has violated or permitted a violation of any condition thereof. The pendency of proceedings before a court or justice shall not suspend or interfere with the power herein given to decree a forfeiture. If the license is declared to have been forfeited, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited, and if he is the owner of the premises described in such forfeited license, no license shall be issued to be exercised on said premises for the residue of the term thereof.

Liquors not to be brought for sale into places where licenses are not granted.
1855, 215, § 20.
G. S. 86, § 37.
1869, 415, § 39.
1878, 207, § 1.
1879, 282, § 1.
P. S. 100, § 17.
143 Mass. 467.
154 Mass. 55.
158 Mass. 199.

SECTION 48. No person shall bring any spirituous or intoxicating liquor into a city or town in which licenses of the first five classes are not granted, with intent to sell it himself or to have it sold by another, or having reasonable cause to believe that it is intended to be sold in violation of law; and any liquor which is transported contrary to the provisions of this section shall be forfeited to the commonwealth; but the provisions of this section shall not apply to the transportation of spirituous liquor through a town to a place beyond.

—transportation of, into no-license cities, etc.
1897, 271, § 1.
172 Mass. 311.

SECTION 49. Spirituous or intoxicating liquor which is to be transported for hire or reward for delivery in a city or town in which licenses of the first five classes are not granted, shall be delivered by the seller or consignor to a railroad corporation or to a person or corporation regularly and lawfully conducting a general express business, in vessels or packages plainly and legibly marked on the outside with the name and address, by street and number, if there be such, of the seller or consignor, and of the purchaser or consignee, and with the kind and amount of liquor therein contained. Delivery of such liquors or any part thereof by a railroad corporation, by a person or corporation regularly and lawfully conducting a general express business or by any other person to a person, other than the owner or consignee, whose name is marked by the seller or consignor on said vessels or packages, or at any other place than is thereon marked, shall be deemed to be a sale by any person making such delivery to such person in the place in which such delivery is made.

Record of receipt, etc., to be kept.
1897, 271, § 2.

SECTION 50. Every railroad corporation and every person or corporation regularly and lawfully conducting a general express business, receiving spirituous or intoxicating liquor for delivery, or actually delivering intoxicating liquor to any person or place in a city or town described in the preceding section, shall keep a book, and plainly enter therein the date of the reception by it or him of each vessel or package of such liquor received for transportation, and a correct transcript of the marks provided for by said section, and the date of its delivery by it or him, and the name of the person to whom it was delivered shall be signed to the same as a receipt; and said book shall at all times be open to the inspection of the officers named in section twenty-seven. Such officers shall not

make public the information obtained by such inspection except in connection with the enforcement of law.

SECTION 51. All vessels or packages containing intoxicating liquor which are addressed contrary to the provisions of section forty-nine, or to a fictitious person, or to a person unknown or who cannot be found, may be seized by any officer qualified to serve criminal process, and shall, with the liquor contained therein, be forfeited to the commonwealth.

Seizure of certain packages.
1897, 271, § 3.
172 Mass. 311.

SECTION 52. No person shall solicit orders for or purchases of intoxicating liquors in a city or town in which licenses of the first five classes are not granted.

Solicitation of orders prohibited.
1897, 271, § 4.

SECTION 53. Whoever violates any provision of his license or of this chapter shall, unless otherwise expressly provided, be punished by a fine of not less than fifty nor more than five hundred dollars, and by imprisonment for not less than one nor more than six months; and such conviction of a licensee shall render any license to him of the first five classes, of the seventh class, and, if for a violation of sections twenty-five to twenty-seven, inclusive, a license of the sixth class, void. Such licensee shall be disqualified to hold a license for one year after his conviction, and, if he is the owner of the licensed premises, no license shall be exercised on the premises described in the forfeited license during the residue of the term thereof.

Penalties.
1832, 166, §§ 1-3, 15.
R. S. 47, §§ 1-4, 27.
1855, 215, §§ 15, 17.
G. S. 86, §§ 30, 31, 34.
1868, 141, § 18.
1869, 415, §§ 32, 36.
1875, 99, § 13.
1878, 207, § 2.
1880, 239, § 6.
P. S. 100, § 18.
1882, 242, § 2.
1887, 392.
1888, 254.
1889, 114, 347.
1896, 308.

1897, 207, § 2; 271, § 5; 487, § 1. 147 Mass. 577. 150 Mass. 325. 156 Mass. 233. 175 Mass. 567.

SECTION 54. Whoever sells, exposes or keeps for sale, native wines in violation of the provisions of section one, or violates the provisions of sections forty and seventy, or being a retail druggist or apothecary violates the provisions of sections twenty-five to twenty-seven, inclusive, or being a licensee of the seventh class, violates the provisions of sections twenty-seven or thirty-two or sells pure alcohol for any other than mechanical, manufacturing or chemical purposes, shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not less than one nor more than six months, or by both such fine and imprisonment. A licensee who violates any provision of his license shall in addition to said penalties forfeit his license and be disqualified to hold a license for one year after his conviction, and if he is the owner of the licensed premises, no license shall be exercised on the premises described in the forfeited license during the residue of the term thereof.

Same subject.
1882, 221, § 4; 242, § 2.
1896, 397, § 16.
1897, 398, § 6.
1901, 186, § 2.

SECTION 55. A prosecution for the violation of any provision of law relative to intoxicating liquors shall not, unless the purposes of justice require such disposition, be placed on file or disposed of except by trial and judgment according to the regular course of criminal proceedings. It shall be otherwise disposed of only upon motion in writing stating specifically the reasons therefor and verified by affidavit if facts are relied on. If the court or magistrate certifies in writing that he is satisfied that the cause relied on exists and that the interests of public justice require the allowance thereof, such motion shall be allowed and said certificate shall be filed in the case.

Disposition of prosecutions regulated.
1855, 215, § 35.
G. S. 86, § 58.
1865, 223, § 1.
1869, 415, § 60.
1875, 43, § 1.
1885, 359.

Licensing board to be notified of convictions.
1880, 249.
P. S. 100, § 19.

SECTION 56. Upon the conviction of a holder of a license for the sale of intoxicating liquors of the violation of any law relative to the business he is licensed to pursue, the court in which or the magistrate before whom he has been convicted shall send to the board which issued the license a certificate under seal, showing the time and place of such conviction.

Owner of building to be notified of convictions.
1876, 162, § 16.
P. S. 100, § 20.

SECTION 57. Upon the conviction of a person of the illegal keeping or sale of intoxicating liquor, the court or magistrate by whom he has been convicted shall issue and cause to be served upon the owner of the building used for such illegal keeping or sale, if he resides within the jurisdiction of such court or magistrate and is not the person so convicted, a written notice that the tenant of said building has been convicted as aforesaid; and a return thereof shall be made to the court or magistrate issuing it. Such notice, so served, shall be deemed to be due and sufficient notice, under the provisions of section eleven of chapter one hundred and one.

Civil liability for damages caused by intoxicated person.
1855, 215, § 22.
G. S. 86, § 39.
1869, 415, § 41.
1875, 99, § 14.
1879, 297, § 1.
1880, 239, § 4; 256, § 1.
P. S. 100, §§ 21, 23.
130 Mass. 158, 366.
132 Mass. 567.
133 Mass. 86.
147 Mass. 409.
152 Mass. 405.
156 Mass. 21.
157 Mass. 333.

SECTION 58. A husband, wife, child, parent, guardian, employer or other person who is injured in person, property or means of support by an intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, jointly or severally, against any person or persons who, by selling or giving intoxicating liquor, have caused in whole or in part such intoxication; and any person or persons who own, rent, lease, or permit the occupation of any building or premises, and have knowledge that intoxicating liquor is to be sold therein, or who, having leased the same for other purposes, knowingly permit therein the sale of intoxicating liquor, shall, if any such liquor sold or given therein causes in whole or in part the intoxication of a person, be liable jointly or severally with the person or persons who sell or give intoxicating liquor as aforesaid, for all damages sustained; and the same may be recovered in an action of tort; but a lessor of real estate shall not be liable for such damages if the occupant holds a license for the sale of such liquor; and an owner or lessor of any building or premises held under lease on the thirtieth day of April in the year eighteen hundred and seventy-nine shall not be liable, under the provisions of this section, for any damage resulting from the lawful sale or giving away of spirituous or intoxicating liquor on said premises during the term of such lease. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use; and all damages recovered by a minor shall be paid either to such minor, or to such person in trust for him, and on such terms, as the court may order. Upon the death of either party, the action and right of action shall survive to or against his executor or administrator. The party injured, or his or her legal representative, may bring either a joint action against the person intoxicated and the person or persons who furnished the liquor, or a separate action against either. If a judgment, which may be recovered under the provisions of this section against a licensee, remains unsatisfied for thirty days after the entry thereof, the board which granted his license shall revoke it; and no license

shall be granted to a person against whom such judgment has been recovered until the same is satisfied.

Right of action of owner paying money for tenant. 1879, 297, § 3. P. S. 100, § 22.

SECTION 59. An owner or lessor of real estate who pays money on account of his liability incurred under the provisions of this chapter for an act of his tenant may, in an action of contract, recover of such tenant the money so paid.

Minors under eighteen not to serve liquors. 1890, 446.

SECTION 60. Whoever, being the holder of a license for the sale of intoxicating liquors to be drunk on the premises, employs any person under the age of eighteen years to serve such liquors to be drunk on the premises shall be punished by a fine of not more than one hundred dollars.

— not to handle intoxicating liquors. 1899, 413.

SECTION 61. Whoever employs a minor under the age of eighteen years in handling intoxicating liquors or packages containing such liquors in a brewery or bottling establishment in which such liquors are prepared for sale or offered for sale shall, for each offence, be punished by a fine of not less than fifty dollars or by imprisonment for not less than three months, or by both such fine and imprisonment. The provisions of this section shall not prohibit the employment of minors in drug stores.

Penalty for furnishing liquor, etc., to a minor. 1786, 68, § 7. 1818, 65, § 2. 1832, 166, § 12. R. S. 47, § 11. 1868, 141, § 11. 1875, 99, § 15. P. S. 100, § 24. 1889, 390. 124 Mass. 277, 578. 128 Mass. 313. 130 Mass. 167. 134 Mass. 198. 142 Mass. 463. 143 Mass. 95. 145 Mass. 311.

SECTION 62. Whoever, himself or by his agent or servant, sells or gives intoxicating liquors to a minor, either for his own use, the use of his parent or of any other person, or allows a minor to loiter upon the premises where such sales are made, shall forfeit one hundred dollars for each offence, to be recovered by the parent or guardian of such minor in an action of tort. Actions for penalties under the provisions of this section shall be commenced within two years after the offence has been committed, and not afterward. The provisions of this section shall not apply to sales made by the holder of a license of the sixth class if made upon the written prescription of a practising physician. 155 Mass. 284. 171 Mass. 250.

— for selling liquor to a person contrary to notice. C. L. 85, § 2. 1786, 68, §§ 16, 17. 1818, 65, § 1. 1832, 166, §§ 12, 14. R. S. 47, §§ 14, 15. 1855, 215, § 21. G. S. 86, § 38. 1861, 136, § 4. 1868, 141, §§ 15, 17. 1869, 415, § 40. 1875, 99, § 16. P. S. 100, § 25. 1885, 282. 1897, 398, § 5. 128 Mass. 289. 142 Mass. 9. 143 Mass. 590. 145 Mass. 95. 152 Mass. 397. 157 Mass. 439.

SECTION 63. The husband, wife, parent, child, guardian or employer of a person who has the habit of drinking spirituous or intoxicating liquor to excess, or the mayor of the city or one of the selectmen of the town in which such person lives, may give notice in writing, signed by him or her, to any person requesting him not to sell or deliver such liquor to the person having such habit. If the person so notified at any time within twelve months thereafter sells or delivers any such liquor to the person having such habit, or permits him to loiter on his premises, the person giving the notice may, in an action of tort, recover of the person notified such amount, not less than one hundred nor more than five hundred dollars, as may be assessed as damages; but an employer who gives such notice shall not recover unless he is injured in his person or property, and a druggist or apothecary shall not be liable hereunder for a sale made upon the prescription of a physician. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use. A mayor or selectman may bring such action in his own name for the benefit, at his election, of either the husband, wife, child, parent or guardian

of the person having such habit. Upon the death of either party or of the person beneficially interested in the action, the action and right of action shall survive to or against or for the benefit of his executor or administrator.

Delivery of liquors prima facie evidence of sale, when.
1855, 215, § 34.
G. S. 86, § 35.
1868, 141, § 20.
1869, 415, § 35.
1875, 99, § 17.
P. S. 100, § 26.

SECTION 64. The delivery of intoxicating liquor in or from a building, booth, stand or other place, except a private dwelling house, or in or from a private dwelling house if any part thereof or its dependencies is used as an inn, eating house or shop of any kind, or other place of common resort, such delivery in either case being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

Signs on shops prima facie evidence of keeping for sale.
1887, 414, § 1.

SECTION 65. If any placard, sign or advertisement is exposed from, maintained in or permitted to remain upon any vehicle, shop, stand, tenement, or any place of common resort, purporting or designed to announce the keeping in or upon said vehicle or any of said premises of spirituous or intoxicating liquors, except in drug stores, it shall be prima facie evidence that such liquors are kept in or upon such vehicle or premises for sale.

U. S. tax receipt to be evidence.
1887, 414, § 2.
146 Mass. 133.

SECTION 66. The posting or maintaining on any premises described in the preceding section of a United States tax receipt given to a person as a dealer in spirituous or intoxicating liquors, other than malt liquors, shall be prima facie evidence that the person named therein, or his agent for the time in charge, keeps for sale and sells such liquors.

Assayer of liquors; bond, salary, duties, etc.
1869, 415, § 25.
1872, 266, § 2.
1875, 99, § 21.
1878, 244, § 2.
1879, 278, § 1.
P. S. 100, § 29.
1882, 221, § 1.
1886, 175.
1887, 232.

SECTION 67. The governor, with the advice and consent of the council, shall annually appoint an inspector and assayer of liquors who, before receiving his commission, shall file in the office of the treasurer and receiver general a bond to the commonwealth in the penal sum of five thousand dollars, with two or more sureties, to be approved by the treasurer and receiver general, for the faithful performance of his official duties. He shall receive an annual salary of twelve hundred dollars. He shall inspect and analyze all liquors sent to him by the licensing board of any city, the selectmen of any town, or by police officers or other officers who are authorized by law to make seizures of liquors. He shall return to such licensing board, selectmen, police or other officers, as soon as may be, a certificate signed by him of the percentage of alcohol by volume at sixty degrees Fahrenheit which such samples of liquors contain. Such statement shall be prima facie evidence of the composition and quality of the liquors to which it relates.

Certificate to accompany each sample.
1882, 221, § 2.
147 Mass. 444.

SECTION 68. A certificate shall accompany each sample of liquor sent for analysis by an officer to the inspector and assayer stating by whom the liquor was seized, the date of the seizure and the name and residence of the officer who seized said liquor. Said inspector and assayer shall note upon said certificate the date of the receipt and the analysis of said liquors and the percentage of the alcohol, as required by the provisions of the preceding section. Said certificate may be in the following form: —

ss

. CITY OF (OR TOWN OF) 19 . Form of certificate.

To the Inspector and Assayer of Liquors for the Commonwealth of Massachusetts.

SIR, — I send you herewith a sample of taken from liquors seized by me. (Date) 19 .

Ascertain the percentage of alcohol it contains, by volume, at sixty degrees Fahrenheit, and return to me a certificate herewith upon the annexed form.

Constable of
Police officer of

COMMONWEALTH OF MASSACHUSETTS.

OFFICE OF THE INSPECTOR AND ASSAYER OF LIQUORS,
BOSTON, 19 .

This is to certify that the received by me with the above statement contains per cent of alcohol, by volume, at sixty degrees Fahrenheit.

Received 19 .
Analysis made 19 .

SEAL.

Inspector and Assayer of Liquors for the Commonwealth.

SECTION 69. The secretary of the commonwealth shall provide and cause officers to be supplied with a suitable number of the forms prescribed by the preceding section. The certificate of said inspector and assayer, given under his hand and seal substantially in the form hereinbefore set forth, shall be admitted as evidence on trials for the forfeiture of intoxicating liquors as to the composition and quality of the liquors to which it relates. Secretary to provide forms. 1882, 221, § 3.

SECTION 70. No person shall tamper with samples of liquor taken as provided in section sixty-seven or alter the statements made upon the forms or certificates aforesaid. Tampering with samples forbidden. 1882, 221, § 4.

SECTION 71. Any court or trial justice may cause liquors which have been seized under the provisions of this chapter to be analyzed by a competent chemist other than said inspector and assayer of liquors, and the reasonable expense thereof, including a fee of not more than five dollars for each analysis, shall be taxed, allowed and paid like other expenses in criminal cases. Court may order analysis by other than the inspector. 1882, 221, § 5.

SECTION 72. If two persons of full age make complaint to a police, district, municipal court, trial justice or justice of the peace authorized to issue warrants in criminal cases, that they have reason to believe and do believe that spirituous or intoxicating liquor, described in the complaint, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel or place, and is intended for sale contrary to law, or has been brought into a city or town in violation of the provisions of sections forty-eight, forty-nine and fifty-one, such court or justice, if it appears that there is probable cause to believe said complaint to be true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy chief of police, deputy marshal, police officer or constable, commanding him to search the premises in which it is alleged that such liquor is deposited, and to seize such liquor, the vessels in which it is contained and all implements of sale and furniture used or kept and provided to be used in the Search warrant. 1852, 322, § 14. 1855, 215, § 25. G. S. 86, § 42. 1869, 415, § 44. 1876, 162, § 1. 1878, 207, § 3. 1879, 305, § 9. P. S. 100, § 30. 1884, 191, 286. 1887, 406, § 1. 1888, 297. 1897, 487, § 2. 122 Mass. 36. 128 Mass. 72. 130 Mass. 29. 140 Mass. 287. 145 Mass. 182. 146 Mass. 509. 150 Mass. 164. 162 Mass. 215. 172 Mass. 311.

illegal keeping or sale of such liquor, and securely keep the same until final action thereon, and return the warrant with his doings thereon, as soon as may be, to a court or trial justice having jurisdiction in the place in which such liquor is alleged to be kept or deposited.

Search of dwelling house.
1852, 322, § 14.
1855, 215, § 25.
G. S. 86, § 43.
1869, 415, § 45.
1876, 162, § 2.
P. S. 100, § 31.
122 Mass. 14.
142 Mass. 470.

SECTION 73. A warrant shall not be issued for the search of a dwelling house, if no tavern, store, grocery, eating house or place of common resort is kept therein, unless one of the complainants makes oath that he has reason to believe and does believe that such liquor has been sold therein or taken therefrom for the purpose of being sold by the occupant, or by his consent or permission, contrary to law, within one month next before making such complaint, and is then kept therein for sale contrary to law by the person complained against. Such complainant shall in his oath state the facts and circumstances on which such belief is founded, and such allegations shall be recited in the complaint and warrant.

Designation of place to be searched.
1855, 215, § 25.
G. S. 86, § 44.
1869, 415, § 46.
1876, 162, § 3.
P. S. 100, § 32.
163 Mass. 42.

SECTION 74. The complaint shall particularly designate the building, structure and place to be searched, the liquor to be seized, the person by whom it is owned, kept or possessed and intended for sale, and shall allege the intent of such person to sell the same contrary to law. The warrant shall allege that probable cause has been shown for the issuing thereof; and the place to be searched, the liquor to be seized, and the person believed to be the owner, possessor, or keeper of such liquor, intending to sell the same contrary to law, shall be designated therein with the same particularity as in the complaint and the complainants shall be summoned to appear as witnesses.

Search of premises and seizure of liquors.
1852, 322, § 14.
1855, 215, § 25.
G. S. 86, § 45.
1869, 415, § 47.
1876, 162, § 4.
P. S. 100, § 33.
1887, 406, § 2.
1888, 297.

SECTION 75. The officer to whom the warrant is committed shall search the premises and seize the liquor described in the warrant, the casks or other vessels in which it is contained, and all implements of sale and furniture used or kept and provided to be used in the illegal keeping or sale of such liquor, if they are found in or upon said premises, and shall convey the same to some place of security, where he shall keep the liquor and vessels until final action is had thereon.

Notice to keeper of liquors.
1852, 322, § 14.
1855, 215, § 26.
G. S. 86, § 46.
1869, 415, § 48.
1876, 162, § 5.
P. S. 100, § 34.
146 Mass. 509.

SECTION 76. If, in the opinion of the court or trial justice before whom the warrant is returned, the value of the liquor seized and the vessels containing it does not exceed fifty dollars, a notice, under seal, and signed by the justice or the clerk of said court, or by the trial justice, shall be issued within twenty-four hours after such seizure, commanding the person complained against as the keeper of the liquor seized and all other persons who claim any interest therein or in the casks or vessels containing the same to appear before said court or trial justice, at a time and place therein named, to answer to said complaint and show cause why such liquor and the vessels containing it should not be forfeited.

Notice to describe vessels and liquors.
1855, 215, § 26.
G. S. 86, § 47.
1869, 415, § 49.
1873, 328.

SECTION 77. The notice shall contain a description of the number and kind of vessels, the quantity and kind of liquor seized, as nearly as may be, and shall state when and where they were seized. It shall, not less than fourteen days before the time appointed for

the trial, be served by a sheriff, deputy sheriff, constable or police officer upon the person charged with being the keeper thereof by leaving an attested copy thereof with him personally or at his usual place of abode, if he is an inhabitant of this commonwealth, and by posting an attested copy on the building in which the liquor was seized, if it was found in a building; otherwise in a public place in the city or town in which the liquor was seized.

1876, 162, § 6. 1879, 305, § 9. P. S. 100, § 35. 146 Mass. 509.

SECTION 78. If, at the time appointed for trial, said notice has not been duly served, or other sufficient cause appears, the trial may be postponed to some other day and place, and such further notice issued as shall supply any defect in the previous notice; and time and opportunity for trial and defence shall be given to persons interested.

Postponement of trial. 1855, 215, § 26. G. S. 86, § 48. 1869, 415, § 50. 1876, 162, § 7. P. S. 100, § 36.

SECTION 79. At the time and place designated in the notice, the person complained against, or any person claiming an interest in the liquor and vessels seized, or any part thereof, may appear and make his claim verbally or in writing, and a record of his appearance and claim shall be made, and he shall be admitted as a party on the trial. Whether a claim as aforesaid is made or not, the court or trial justice shall proceed to try, hear and determine the allegations of such complaint, and whether said liquor and vessels, or any part thereof, are forfeited. If it appears that the liquor, or any part thereof, was at the time of making the complaint owned or kept by the person alleged therein for the purpose of being sold in violation of law, the court or trial justice shall render judgment that such and so much of the liquor so seized as was so unlawfully kept, and the vessels in which it is contained, shall be forfeited to the commonwealth.

Claimants of liquors, etc., may be admitted as parties. 1852, 322, § 14. 1855, 215, § 27. G. S. 86, § 49. 1869, 415, § 51. 1876, 162, § 8. P. S. 100, § 37. 122 Mass. 11. 142 Mass. 470.

SECTION 80. Any liquor so forfeited shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the chief of the district police, who upon receipt of the same shall notify said court or justice thereof. Said officer shall sell the same, and after paying the cost of the transportation of the liquors he shall pay over the net proceeds to the treasurer and receiver general. The officer who serves the order above named shall be allowed therefor fifty cents, but shall not be entitled to receive any travelling fees or mileage on account of the service thereof.

Forfeited liquors to be sold, etc. 1852, 322, § 14. 1855, 215, § 27. G. S. 86, § 50. 1869, 415, § 52. 1872, 304. 1876, 162, § 9. 1879, 305, § 3. P. S. 100, § 38. 1887, 53.

SECTION 81. If it is not proved on the trial that all or part of the liquor seized was kept or deposited for sale contrary to law, the court or trial justice shall issue a written order to the officer having the same in custody to return so much thereof as was not proved to be so kept or deposited and the vessels in which it is contained, to the place as nearly as may be from which it was taken, or to deliver it to the person entitled to receive it. After executing such order, the officer shall return it to the court or trial justice with his doings indorsed thereon.

Liquors not forfeited to be returned. 1855, 215, § 28. G. S. 86, § 51. 1869, 415, § 53. 1876, 162, § 10. P. S. 100, § 39.

SECTION 82. All implements of sale and furniture which may be seized under the provisions of sections seventy-two and seventy-five

Forfeiture of implements, etc. 1888, 297.

shall be forfeited and disposed of in the manner provided for the forfeiture and disposition of intoxicating liquors; but the court or trial justice may, if deemed for the interest of the commonwealth, order the destruction or sale of said property by any officer qualified to serve criminal process and the proceeds of a sale thereof shall be paid over to the county; and said officer shall make return of the order for such destruction or sale and his doings thereon to the court or justice issuing the same.

Costs.
1855, 215, § 27.
G. S. 86, § 52.
1869, 415, § 54.
1876, 162, § 11.
P. S. 100, § 40.

SECTION 83. If no person appears and is admitted as a party as aforesaid, or if judgment is rendered in favor of all the claimants who appear, the cost of the proceedings shall be paid as in other criminal cases. If only one party appearing fails to sustain his claim, he shall pay all the costs except the expense of seizing and keeping the liquor, and an execution shall be issued against him therefor. If judgment is rendered against two or more claimants of distinct interests in the liquor, the costs shall, according to the discretion of the court or trial justice, be apportioned among such parties, and executions shall be issued against them severally. If such execution is not forthwith paid, the defendant therein named shall be committed to jail, and shall not be discharged therefrom until he has paid the same and the costs of commitment, or until he has been imprisoned thirty days.

Appeal.
1852, 322, § 16.
1855, 215, § 29.
G. S. 86, § 53.
1869, 415, § 55.
1870, 242.
1876, 162, § 12.
P. S. 100, § 41.

SECTION 84. A claimant whose claim is not allowed as aforesaid, and the person complained against, shall each have the same right of appeal to the superior court as if he had been convicted of crime; but before his appeal is allowed he shall recognize to the commonwealth in the sum of two hundred dollars, with sufficient surety or sureties, to prosecute his appeal to the superior court and to abide the sentence of the court thereon. Upon such appeal, any question of fact shall be tried by a jury. On the judgment of the court after verdict, whether of forfeiture of the whole or any part of the liquor and vessels seized, or otherwise, similar proceedings shall be had as are directed in the five preceding sections.

Notice returnable to superior court, when.
1855, 215, § 30.
G. S. 86, § 54.
1869, 415, § 56.
1876, 162, § 13.
P. S. 100, § 42.

SECTION 85. If, in the opinion of the court or trial justice before whom a warrant under which liquor has been seized is returnable, the value of the liquor seized with the vessel containing it exceeds fifty dollars, a notice shall be issued and served as directed in sections seventy-six and seventy-seven, except that it shall be made returnable to the sitting of the superior court for criminal business to be held in the county next after the expiration of fourteen days from the time of issuing the notice. The superior court shall have jurisdiction of the case, and may proceed therein in the manner directed in sections seventy-eight to eighty-one, inclusive, and eighty-three, as nearly as may be, and with a jury, upon any issue of facts presented by the claimant or directed by the court.

Arrest without warrant, when.
1855, 215, § 15.
G. S. 86, § 55.
1869, 415, § 57.
1876, 162, § 14.
1878, 207, § 3.
1879, 305, § 9.

SECTION 86. A mayor, alderman, selectman, deputy sheriff, chief of police, deputy chief of police, city marshal, deputy or assistant marshal, police officer or constable, in his city or town, may without a warrant arrest any person whom he finds in the act of illegally selling, transporting, distributing or delivering intoxicat-

ing liquor, and seize the liquor, vessels and implements of sale in the possession of such person, and detain them until warrants can be procured against such person, and for the seizure of said liquor, vessels and implements, under the provisions of this chapter. Such officers shall enforce or cause to be enforced the penalties provided by law against every person who is guilty of a violation of which they can obtain reasonable proof of any law relative to the sale of intoxicating liquor. If a sheriff, deputy sheriff, chief of police, deputy chief of police, constable or police officer neglects for two weeks after being furnished with a written notice of a violation of the law relative to the sale of intoxicating liquor and with the names of the witnesses to institute proceedings thereon, any person who thereafter makes complaint shall be entitled to all fines imposed and collected for said violation.

P. S. 100, § 43. 147 Mass. 577.

SECTION 87. All intoxicating liquors which are kept for sale contrary to law and the implements and vessels actually used in selling and keeping the same, are declared to be common nuisances.

Liquors illegally kept, etc., common nuisances. 1855, 215, § 37.

G. S. 86, § 60. 1869, 415, § 62. 1876, 162, § 15. P. S. 100, § 44.

SECTION 88. All buildings or places used by clubs for the purpose of selling, distributing or dispensing intoxicating liquors to their members or others shall be deemed common nuisances; and whoever keeps or maintains, or assists in keeping or maintaining, such a common nuisance, shall be punished by a fine of not less than fifty nor more than one hundred dollars and by imprisonment for not less than three nor more than twelve months; but in any city or town in which the inhabitants vote that licenses shall be granted, the licensing board may, upon application therefor, and the payment to the treasurer of such city or town of such a fee as said board may determine, of not less than fifty nor more than five hundred dollars, grant to any club which they may consider a proper organization and not injurious to the welfare, good order and morality of the community, and which has not organized for the apparent purpose of engaging in or giving employment to any of its members by engaging in the business of selling, distributing or dispensing intoxicating liquors to its members or others, a club license authorizing the distributing and dispensing of intoxicating liquors by said club, on the premises occupied by it and to be specified and described in said license, to its members; which license may be revoked at any time. The provisions of sections fifteen, thirty-four and forty-two shall not apply to such licenses.

Club houses to be common nuisances, when. 1881, 226. P. S. 100, § 45. 1887, 206. 152 Mass. 337. 167 Mass. 13. 173 Mass. 256.

SECTION 89. If any person is convicted of exposing and keeping for sale or selling intoxicating liquor on the premises occupied by any club or organization described in section two of chapter one hundred and twenty-five or of illegal gaming upon said premises, or of being present where implements of gaming are found upon said premises, the selectmen of the town, or the mayor and aldermen of the city, in which such club or organization is situated, except Boston, and in Boston, the board of police, shall immediately notify the secretary of the commonwealth, and he shall, upon receipt of such notice, declare the charter of said club void, and shall publish a notice, in at least one newspaper published in the county

Charter of club where intoxicating liquor is sold or illegal gaming carried on may be declared void. 1890, 439, § 2. 1893, 226, § 2. 1894, 542.

in which said club or organization is situated, that such incorporation is void and of no further effect.

Forms to be used in prosecutions. 1855, 337. G. S. 86, § 63. 1869, 415, § 66. 1876, 162, § 17. P. S. 100, § 46. 122 Mass. 16.

SECTION 90. The forms heretofore in use may continue to be used in prosecutions under the provisions of this chapter, and if substantially followed shall be deemed sufficient to fully and plainly, substantially and formally describe the several offences in each of them set forth, and to authorize the lawful doings of the officers acting by virtue of the warrants issued in substantial conformity therewith; but the provisions of this section shall not exclude the use of other suitable forms.

CHAPTER 101.

OF COMMON NUISANCES.

Burnt or dangerous buildings, how disposed of. 1855, 469, §§ 1, 6. G. S. 87, § 1. P. S. 101, § 1.

SECTION 1. In a city or town in which the city council or the inhabitants accept the provisions of this and the four following sections or have accepted the corresponding provisions of earlier laws, the mayor and aldermen or selectmen, after notice in writing to the owner of a burnt, dilapidated or dangerous building, and a hearing, may adjudge it to be a nuisance to the neighborhood, or dangerous, and may thereupon make and record an order prescribing the disposition, alteration or regulation thereof. The city or town clerk shall deliver a copy of the order to a constable, who shall forthwith serve an attested copy thereof upon such owner, and make return of his doings thereon to said clerk.

Owner aggrieved may apply for jury. 1855, 469, § 3. G. S. 87, § 2. 1873, 261. P. S. 101, § 2. 128 Mass. 36, 347.

SECTION 2. An owner who is aggrieved by such order may, within three days after the service thereof upon him, apply to the superior court for a jury. The court shall issue a warrant for a jury, which shall be impanelled by the sheriff within fourteen days after the date of the warrant in the manner provided in chapter forty-eight; or, instead thereof, if the applicant for a jury so elects and after such notice as the court shall order to the adverse party, it shall order a trial to be had at the bar of the superior court, in the same manner as other civil causes are there tried by jury.

Verdict of jury, etc. 1855, 469, § 4. G. S. 87, § 3. 1873, 261. P. S. 101, § 3.

SECTION 3. The jury may affirm, annul or alter such order; and the sheriff, if the trial is before him, shall return the verdict to the next sitting of the court for acceptance; and the verdict, whether before the sheriff or in the superior court, being accepted, shall take effect as an original order.

Costs. 1855, 469, § 5. G. S. 87, § 4. P. S. 101, § 4.

SECTION 4. If the order is affirmed, the applicant shall pay the costs; if it is annulled, he shall recover damages and costs against the city or town; and if it is altered, the court may render such judgment as to costs as justice shall require.

Nuisance may be abated, etc. 1855, 469, § 2. G. S. 87, § 5. P. S. 101, § 5.

SECTION 5. The mayor and aldermen of a city or selectmen of a town shall have the same power and authority to abate and remove any such nuisance as is given to the board of health of a city

or town by the provisions of sections sixty-seven, sixty-eight and sixty-nine of chapter seventy-five.

SECTION 6. All buildings, places or tenements which are resorted to for prostitution, lewdness or illegal gaming, or which are used for the illegal keeping or sale of intoxicating liquor, shall be deemed common nuisances. 14 Gray, 26, 390, 406. 7 Allen, 304. 12 Allen, 179.

Buildings resorted to for prostitution, etc., nuisances.
1855, 405, § 1.
G. S. 87, § 6.
P. S. 101, § 6.

SECTION 7. Whoever keeps or maintains such common nuisance shall be punished by a fine of not less than fifty nor more than one hundred dollars and by imprisonment for not less than three nor more than twelve months.

Penalty for keeping such nuisance.
1855, 405, § 2.
G. S. 87, § 7.
1865, 269, § 1.
1866, 280, § 3.

P. S. 101, § 7.
12 Gray, 89, 326.
1 Allen, 592.
2 Allen, 169.
97 Mass. 122.
105 Mass. 465.
108 Mass. 27.
109 Mass. 361.
110 Mass. 359.
111 Mass. 425–427.
114 Mass. 252.
118 Mass. 456.
127 Mass. 452.
134 Mass. 201.
136 Mass. 436.
138 Mass. 496, 508, 511.
141 Mass. 110.
144 Mass. 171.
145 Mass. 104, 117, 250, 251, 406.
147 Mass. 161.
148 Mass. 8.
150 Mass. 71.
152 Mass. 584.
153 Mass. 5, 211, 483.
154 Mass. 115, 388.
160 Mass. 298.
165 Mass. 62, 588.
166 Mass. 377.
167 Mass. 374.

SECTION 8. The supreme judicial court or the superior court shall have jurisdiction in equity, upon an information filed by the district attorney for the district or upon the petition of the board of police or police commissioners, or other authority having control of the police, or of not less than ten legal voters of a city or town, stating that a building, place or tenement therein is resorted to for prostitution, lewdness or illegal gaming, or is used for the illegal keeping or sale of intoxicating liquors, to restrain, enjoin or abate the same as a common nuisance.

Abatement of a common nuisance.
1887, 380.
1895, 419, § 10.
149 Mass. 550.

SECTION 9. The provisions of sections sixty-five and sixty-six of chapter one hundred shall apply to all cases for the illegal keeping or sale of intoxicating liquors in violation of the provisions of this chapter.

Evidence of sales.
1887, 414, § 3.

SECTION 10. If a tenant or occupant of a building or tenement, under a lawful title, uses such premises or any part thereof for any of the purposes enumerated in section six, such use shall annul and make void the lease or other title under which he holds and, without any act of the owner, shall cause the right of possession to revert and vest in him, and he may, without process of law, make immediate entry upon the premises, or may avail himself of the remedy provided in chapter one hundred and eighty-one.

Keeping a nuisance by tenant to avoid lease, etc.
R. S. 130, § 9.
1855, 405, § 3.
G. S. 87, § 8; 165, § 14.
P. S. 101, § 8; 207, § 14.
15 Gray, 312.
6 Allen, 370.
7 Allen, 109.
14 Allen, 289.
103 Mass. 381.

SECTION 11. Whoever knowingly lets a building or tenement owned by him, or under his control, for any purpose enumerated in section six, or knowingly permits such building or tenement, or any part thereof, while under his control, to be used for such purpose, or after due notice of any such use omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can lawfully be done, shall be deemed guilty of aiding in the maintenance of such nuisance and punished as provided in section seven.

Penalty on landlord for letting, etc., building for such purposes.
1855, 405, § 4.
G. S. 87, § 9.
1866, 280, § 3.
P. S. 101, § 9.
106 Mass. 539.
112 Mass. 277.
135 Mass. 552.
136 Mass. 148.
138 Mass. 181.
146 Mass. 36.

SECTION 12. The mayor and aldermen of a city or the selectmen of a town, upon complaint made to them under oath that the complainant has reason to believe and does believe that a booth, shed

Removal of gambling booths near public shows.
1850, 291.

1851, 91.
G. S. 87, § 10.
P. S. 101, § 10.
149 Mass. 559.

or other temporary erection, situated within one mile of a muster field, cattle show ground, or other place of public gathering, is used and occupied for the sale of spirituous or fermented liquor, or for the purpose of gaming, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same forthwith. If the owner or occupant refuses or neglects so to do, the mayor and aldermen or selectmen may forthwith abate such booth, shed or erection as a nuisance, and pull down or otherwise destroy the same in any manner they choose, or through the agency of any force, civil or military.

CHAPTER 102.

OF LICENSES AND MUNICIPAL REGULATIONS OF POLICE.

SECTIONS 1–22. — Innholders and Common Victuallers.
SECTIONS 23–28. — Intelligence Offices.
SECTIONS 29–32. — Junk, Old Metals and Second Hand Articles.
SECTIONS 33–46. — Pawnbrokers.
SECTIONS 47–68. — Loans or Pledges on Personal Property.
SECTIONS 69–72. — Stables.
SECTIONS 73–77. — Steam Engines and Furnaces.
SECTIONS 78–86. — Engineers and Firemen of Stationary Engines.
SECTIONS 87–121. — Rockets, Gunpowder and Explosives.
SECTIONS 122–127. — Smoke Nuisance.
SECTIONS 128–166. — Dogs.
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SECTIONS 168–171. — Billiard Tables and Bowling Alleys.
SECTIONS 172–175. — Theatrical Exhibitions, Masked Balls, etc.
SECTIONS 176, 177. — Skating Rinks.
SECTIONS 178–180. — Picnic Groves.
SECTIONS 181–183. — Steamboats on Inland Waters.
SECTIONS 184–189. — General Provisions.

INNHOLDERS AND COMMON VICTUALLERS.

Penalty on unlicensed innholder or common victualler.

SECTION 1. Whoever assumes to be an innholder or common victualler, without being licensed as such according to the provisions of this chapter, shall forfeit one hundred dollars.

C. L. 79, § 2; 84, § 3.
1786, 68, § 1.
1830, 136, §§ 1, 2.
1832, 166, §§ 1, 3.
R. S. 47, § 1.
G. S. 88, § 1.
P. S. 102, § 1.
24 Pick. 352, 374.
5 Gray, 597.
101 Mass. 214.
105 Mass. 263.

Licenses, how granted.
C. L. 79, § 2.
1692–3, 9, § 1.
1703–4, 5, § 1.
1786, 68, § 1.
1792, 25.
1832, 166, §§ 4, 6, 8.
1833, 122.
R. S. 47, §§ 17, 18.
1837, 242, § 2.
G. S. 88, §§ 2, 21.
1875, 99, § 6, cl. 5.
1877, 244, § 5.
1879, 38, § 1.
P. S. 102, §§ 2, 24.
1885, 83; 323, § 2.

SECTION 2. The board of police in Boston, boards of license commissioners in other cities having such boards, the mayor and aldermen in cities having no such boards, and in cities having such boards but which in any year vote not to authorize the granting of licenses for the sale of intoxicating liquor, and the selectmen of towns, may grant licenses to persons to be innholders or common victuallers in such cities or towns. Such license shall not be issued or be valid until it has been signed by the mayor and a majority of the aldermen in cities in which the license is to be granted by the mayor and aldermen, or by a majority of the licensing board in other cities and in towns. A mayor or any member of a licensing

board may refuse to sign a license for a person who in his opinion has not complied with the provisions of this chapter; and a mayor or any member of such board who signs a license granted contrary to the provisions of this chapter shall be punished by a fine of not more than fifty dollars. The provisions of this section shall not require the licensing boards to grant either of such licenses, if in their opinion the public good does not require it. If such license is granted, no fee shall be charged therefor. Such license shall, in Boston, be recorded in the office of the board of police.

1894, 235; 428, § 4. 141 Mass. 23.

SECTION 3. Every such license shall specify the street, lane, alley or other place, and the number of the building, or give some other particular description thereof, where the licensee shall exercise his employment; and the license shall not protect a licensee who exercises his employment in any other place than that so specified.

Contents of license. 1832, 166, § 6. R. S. 47, § 17. G. S. 88, § 2. P. S. 102, § 3.

SECTION 4. Such licenses shall expire on the thirtieth day of April of each year; but they may be granted during April, to take effect on the first day of May next ensuing.

Term of license. C. L. 83, § 15. 1703-4, 5, § 1.

1786, 68, § 2. 1832, 166, § 7. R. S. 47, § 19. G. S. 88, § 3. 1878, 241, § 9. 1879, 38, § 2. P. S. 102, § 4. 1890, 73.

SECTION 5. Every innholder and every common victualler shall at all times be provided with suitable food for strangers and travellers. Every innholder shall also have upon his premises suitable rooms, with beds and bedding, for the lodging of his guests, and, if the licensing board so requires, be provided with stable room, hay and provender for their horses and cattle.

Innholders, etc., to have suitable food, rooms, etc., for travellers. C. L. 82, § 10. 1698, 10, § 1. 1786, 68, § 3. 1832, 166, § 10. R. S. 47, § 5.

G. S. 88, § 8. 1878, 241, §§ 1, 2. P. S. 102, §§ 5, 6.

SECTION 6. An innholder's or common victualler's license shall not be granted or issued unless at the time of making application therefor the applicant has upon his premises the necessary implements and facilities for cooking, preparing and serving food for strangers and travellers; and, if an applicant for an innkeeper's license, unless he also has the rooms, beds and bedding and stable room and provender for horses and cattle required by law.

Innholder's license to be refused, when. 1878, 241, §§ 3, 4. P. S. 102, §§ 7, 8.

SECTION 7. An innholder, who, upon request, refuses to receive and make suitable provision for a stranger or traveller, and also for his horses and cattle, when he may under the provisions of this chapter be legally required so to do, shall be punished by a fine of not more than fifty dollars; and shall also forfeit his license.

Penalty on innholder for refusal to receive travellers. C. L. 82, § 10. 1710-11, 11, § 4. 1786, 68, § 3. 1832, 166, § 10. R. S. 47, § 8.

G. S. 88, § 9. 1878, 241, § 5. P. S. 102, § 9.

SECTION 8. A common victualler who, upon request, upon any other than the Lord's day, refuses to supply food to a stranger or traveller, shall be punished by a fine of not more than fifty dollars; and shall also forfeit his license.

— on victualler for refusal to supply food. 1878, 241, § 6. P. S. 102, § 10.

SECTION 9. If, in the opinion of the licensing board, a licensee as an innholder or a common victualler ceases to be engaged in the business he is licensed to pursue, or fails to maintain upon his premises the implements and facilities required by this chapter, it shall immediately revoke his license.

Revocation of license. 1878, 241, § 7. P. S. 102, § 11.

Liability of innholders for loss of property.
1853, 405, § 1.
G. S. 88, § 10.
1870, 338, § 1.
P. S. 102, § 12.
1885, 358.
1897, 305.
9 Pick. 280.
7 Cush. 417.
140 Mass. 123.

SECTION 10. An innholder shall not be liable for losses sustained by a guest, except of wearing apparel, articles worn or carried on the person, personal baggage and money necessary for travelling expenses and personal use; nor shall such guest recover of an innholder more than one thousand dollars as damages for any such loss; but an innholder shall be liable in damages to an amount not exceeding three thousand dollars for the loss of money, jewels and ornaments of a guest specially deposited for safe keeping, or offered to be so deposited, with such innholder, person in charge at the office of the inn or other agent of such innholder authorized to receive such deposit. The provisions of this section shall not affect the innholder's liability under the provisions of any special contract for other property deposited with him for safe keeping after being fully informed of its nature and value, nor increase his liability in case of loss by fire or overwhelming force beyond that specified in the following section.

— for loss by fire.
1853, 405, § 2.
G. S. 88, § 11.
P. S. 102, § 15.
9 Pick. 280.

SECTION 11. In case of loss by fire or overwhelming force, innholders shall be answerable to their guests only for ordinary and reasonable care in the custody of their baggage or other property.

Penalty for fraudulently procuring entertainment at an inn.
1870, 338, § 2.
P. S. 102, § 13.
1885, 187.
1884, 169.

SECTION 12. Whoever puts up at an inn or boarding house and, without having an express agreement for credit, procures food, entertainment or accommodation without paying therefor, and with intent to cheat or defraud the owner or keeper thereof; or, with such intent, obtains credit at an inn or boarding house for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto; or, with such intent, removes or causes to be removed any baggage or effects from an inn or boarding house, while a lien exists thereon for the proper charges due from him for fare and board furnished therein, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than three months. Boarding house keepers shall post a copy of this section in a conspicuous place in each room of their boarding houses.

Copy of sections to be posted in inns.
1870, 338, § 3.
P. S. 102, § 14.

SECTION 13. Innholders shall post a printed copy of this and the three preceding sections in a conspicuous place in each room of their inns.

Disposition of baggage in possession of innholders, etc.
1893, 419, § 1.
1894, 181.

SECTION 14. An innholder, after retaining for six months from the time of departure of a guest from his inn any trunks, bags, valises, parcels, clothing, goods or other personal property of a guest which has been abandoned by such guest, or which such innholder retains by virtue of his lien thereon for the unpaid board, lodging and other charges of such guest, may sell the same by public auction upon the premises of the inn, notice of the time and place of sale first being posted in a conspicuous place in the office of the inn for four weeks prior to the date of such sale, and published once in each of three successive weeks in a newspaper, if any, published in the city or town in which the inn is situated; otherwise in a newspaper published in the county in which the inn is situated, the first publication of such notice to be not less than twenty-one days before the day of sale. A copy of such notice shall be sent

by mail prepaid and duly registered and addressed to said guest at the residence registered by him in the register of such inn. Such notice shall contain a descriptive list of all such property and of all such specific marks as may serve to identify such property, and the name of the guest so far as known to such innholder.

Disposition of proceeds of sale. 1893, 419, § 2.

SECTION 15. The proceeds of such sale, after deducting all reasonable charges and expenses incurred in the storage and sale of such property, shall be applied to the discharge of the lien of such innholder thereon for the board, lodging and other charges of such guest, and any proceeds remaining thereafter shall be paid to the treasurer and receiver general for the use of the commonwealth.

Balance of proceeds to be paid to owner. 1893, 419, § 3.

SECTION 16. If, within three years after such sale, the owner of any such property claims it and proves his ownership thereof, the said proceeds, after deducting all reasonable charges and expenses, shall be paid over to him by the treasurer and receiver general.

Negligence of guests a defence. 1853, 405, § 3. G. S. 88, § 12. P. S. 102, § 16. 140 Mass. 123. 145 Mass. 189.

SECTION 17. An innholder against whom a claim is made for loss sustained by a guest may show that such loss is attributable to the negligence of the guest or to his failure to comply with the regulations of the inn, if they are reasonable and proper and are shown to have been duly brought to the notice of the guest by the innholder.

Innholders' signs. C. L. 79, § 2. 1786, 68, § 3. 1832, 166, § 10. R. S. 47, § 7. G. S. 88, § 14. P. S. 102, § 17.

SECTION 18. Every innholder and common victualler shall at all times have a board or sign affixed to his house, shop, cellar or store, or in a conspicuous place near the same, with his name legibly inscribed thereon in large letters and the employment for which he is licensed inscribed thereon, and upon neglect thereof shall forfeit twenty dollars.

Imprisonment, if fine unpaid. 1832, 166, § 15. R. S. 47, § 27. G. S. 88, § 15. P. S. 102, § 18. 23 Pick. 280.

SECTION 19. Whoever is convicted under the provisions of the preceding sections, except those contained in sections seven and eight, shall be punished by a fine. If he fails to pay the same he may be punished by imprisonment for not more than ninety days.

Penalty on second conviction. 1786, 68, § 8. 1837, 242, § 3. G. S. 88, § 16. P. S. 102, § 19.

SECTION 20. Whoever, being licensed under the provisions of the preceding sections, is convicted a second time of a violation of any of said provisions shall, in addition to the penalties before provided, be adjudged to have forfeited his license.

— on third conviction. C. L. 82, § 9. 1786, 68, § 8. 1832, 165, § 15. R. S. 47, § 29. 1837, 242, § 4. G. S. 88, § 17.

SECTION 21. Whoever is convicted a third time of a violation of any of the provisions of the preceding sections, except those contained in sections seven and eight, shall, in addition to the penalties before provided, be punished by imprisonment for not more than ninety days. P. S. 102, § 20.

Summary of laws to be furnished to licensees. 1837, 242, § 5. G. S. 88, § 22. P. S. 102, § 25.

SECTION 22. The secretary of the commonwealth shall cause a condensed summary of all laws relative to innholders and common victuallers to be printed, and shall supply copies thereof to licensing boards, who shall at the time of granting each license provide the licensee with a copy of such summary.

INTELLIGENCE OFFICES.

Penalty for keeping unlicensed intelligence office. 1848, 270, § 1. G. S. 88, § 23. 1872, 237. P. S. 102, § 26.

SECTION 23. Whoever, without a license therefor, establishes or keeps an intelligence office for the purpose of obtaining or giving information concerning places of employment for domestics, servants or other laborers, except seamen, or for procuring or giving information concerning such persons for or to employers, or for procuring or giving information concerning employment in business, shall be punished by a fine of ten dollars for each day such office is so kept.

Licenses for intelligence offices. 1848, 270, § 2. G. S. 88, § 24. 1876, 147, §§ 1, 2. 1880, 84, § 1. P. S. 102, § 27. 1885, 323, § 2.

SECTION 24. The mayor and aldermen of any city except Boston, and in Boston, the board of police, and the selectmen of any town, may, for the purposes mentioned in the preceding section, grant licenses to suitable persons, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive, and may revoke them at pleasure.

Keeper not to receive money, when. 1894, 180, § 1.

SECTION 25. The keeper of an intelligence office shall not receive or accept any money from a person seeking employment through the agency of such office, unless employment of the kind demanded is furnished.

Money to be refunded, when. 1894, 180, § 2.

SECTION 26. If a person who receives employment through the agency of an intelligence office is discharged by his employer within ten days after the time of entering upon such employment, and such discharge is not caused by his inability, incompetence, refusal to perform the work required or other fault, the keeper of such intelligence office shall on demand refund to him five-sixths of the amount paid to such keeper by the employer on account of such employment.

Statutes to be printed on licenses. 1894, 180, § 3.

SECTION 27. City and town officers who are charged with the duty of granting licenses to keepers of intelligence offices shall cause sections twenty-five to twenty-eight, inclusive, to be printed on every such license. They shall also cause to be prepared and shall furnish to each keeper of a licensed intelligence office copies of said sections, printed upon cardboard in type of a size not smaller than pica, and each licensee shall conspicuously post three of said printed copies in each room occupied by him for the purpose of such intelligence office.

Penalty. 1894, 180, § 4.

SECTION 28. If a keeper of an intelligence office violates the provisions of the three preceding sections, his license shall be revoked and he shall be punished by a fine of not less than twenty-five nor more than fifty dollars for each offence.

JUNK, OLD METALS AND SECOND HAND ARTICLES.

Licenses to deal in junk, etc. 1839, 53, §§ 1, 2, 4. G. S. 88, §§ 25, 26. 1876, 147, §§ 1, 2. 1880, 84, § 1. P. S. 102, § 28.

SECTION 29. The mayor and aldermen of any city except Boston, and in Boston, the board of police, and the selectmen of any town, if ordinances or by-laws therefor have been adopted in such city or town, may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or second-

hand articles, in such city or town, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive, and may revoke such licenses at pleasure. 1885, 323, § 2. 1900, 416.

SECTION 30. A city or town may provide by ordinance or by-law that every keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles, within its limits, shall keep a book, in which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made; that such book shall at all times be open to the inspection of the mayor and aldermen or selectmen and of any person by them respectively authorized to make such inspection; that every keeper of such shop shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters; that such shop, and all articles of merchandise therein, may be at all times examined by the mayor and aldermen or selectmen, or by any person by them respectively authorized to make such examination; and that no keeper of such shop shall, directly or indirectly, either purchase or receive by way of barter or exchange any of the articles aforesaid of a minor or apprentice, knowing or having reason to believe him to be such; and that no article purchased or received shall be sold until at least one week from the date of its purchase or receipt has elapsed. A city or town may also prescribe in like manner the hours in which such shops shall be closed, and that no keeper thereof shall purchase any of the articles aforesaid during such hours. Towns may make rules for dealers, etc. 1862, 205, § 1. P. S. 102, § 29. 1900, 416, § 3.

SECTION 31. Every such rule, regulation and restriction shall be expressed in every such license. 1862, 205, § 2. P. S. 102, § 30. Such rules to be expressed in licenses.

SECTION 32. Whoever, not being so licensed, keeps such shop or is such dealer in such city or town, or, being licensed, keeps such shop or is such dealer in any other place or manner than that designated in his license or after notice to him that his license has been revoked, shall forfeit twenty dollars for each offence; and whoever violates any rule, regulation or restriction contained in his license shall forfeit not more than twenty dollars for each offence. Penalty. 1839, 53, § 3. G. S. 88, § 27. 1862, 205, § 3. P. S. 102, § 31.

PAWNBROKERS.

SECTION 33. The mayor and aldermen of any city except Boston, and in Boston, the board of police, and the selectmen of any town, if ordinances or by-laws therefor have been adopted in such city or town, may license suitable persons to carry on the business of pawnbrokers in such city or town, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive, and may revoke such licenses at pleasure. Licenses to pawnbrokers. 1855, 121, § 1. G. S. 88, §§ 28, 29. 1876, 147, §§ 1, 2. 1880, 84, § 1. P. S. 102, § 32. 1885, 323, § 2.

SECTION 34. Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him on the premises occupied by him for his business for at least four months after the date of deposit, if not of a perishable nature; and, if perishable, for at least one month after said date. After such date, he may Pawnbrokers to retain articles four months, etc. 1879, 102, § 1. P. S. 102, § 33. 1884, 324.

sell the same by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay any surplus to the person entitled thereto on demand. No article taken in pawn by such pawnbroker, exceeding twenty-five dollars in value, shall be disposed of otherwise than as above provided, any agreement or contract between the parties thereto to the contrary notwithstanding. Articles of personal apparel shall not be deemed to be of a perishable nature within the meaning of this section.

Rate of interest may be limited.
1879, 102, § 2.
P. S. 102, § 34.

SECTION 35. The licensing board may fix the rate of interest which such pawnbrokers may receive on loans, and may fix different rates which may be received for different amounts of money lent; and no licensed pawnbroker shall charge or receive a greater rate of interest than that so fixed. Any such pawnbroker who violates any provision of this or the preceding section shall be punished by a fine of not more than fifty dollars for each offence.

Pawnbroker's shop may be entered and examined, etc.
1877, 185, § 1.
P. S. 102, § 35.
1888, 243.

SECTION 36. The chief of police of a city, the selectmen of a town, any officer authorized by either of them, or a district police officer, may at any time enter upon any premises used by a licensed pawnbroker for the purposes of his business, ascertain how he conducts his business and examine all articles taken in pawn or kept or stored in or upon said premises and all books and inventories relating thereto. Every such pawnbroker, his clerk, agent, servant or other person in charge of the premises shall exhibit to such officer on demand any or all of such articles, books and inventories.

Penalty for refusing to admit officer.
1877, 185, § 2.
P. S. 102, § 36.

SECTION 37. A licensed pawnbroker, clerk, agent or other person in charge of such premises who refuses to admit thereto an officer authorized to enter the same, or who fails to exhibit to him on demand all such articles, books and inventories, and any person who wilfully hinders, obstructs or prevents such officer from entering the premises or from making the examination authorized in the preceding section, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

— for carrying on business without license.
1855, 121, §§ 3, 4.
G. S. 88, § 30.
P. S. 102, § 37.

SECTION 38. Whoever, not being licensed, carries on such business or is concerned therein within such city or town, or, being licensed, carries on such business or is concerned therein in any other place or manner than that designated in his license or after notice to him that his license has been revoked, shall be punished by a fine of not more than fifty dollars for each offence.

Loans on personal property regulated.
1886, 197, § 1.
176 Mass. 290.

SECTION 39. No person, corporation or partnership shall, in any city or in any town of ten thousand or more inhabitants, engage in or carry on the business of loaning money upon mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling it back again at a stipulated price, unless such person, corporation or partnership is licensed as a pawnbroker; but the provisions of this and the six following sections shall apply only if such property is deposited with the lender, and shall not

apply to loans made upon stock, bonds, notes or other written or printed evidences of ownership of property or of indebtedness to the holder or owner of any such securities.

Fee for license. 1895, 497, § 2.

SECTION 40. The fee for such license or renewal thereof as a pawnbroker shall be fifty dollars. Such license shall expire in one year after the date thereof and may be renewed upon application to the licensing board which granted it. The board which grants such license may revoke it at any time. The licensee shall, at the time of receiving such license, file with the mayor, board of police or licensing board a bond to such city or town, with two sureties, in the penal sum of three hundred dollars, approved by such mayor, board of police or licensing board, and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

Regulations. 1895, 497, § 3.

SECTION 41. The board which grants licenses to pawnbrokers shall from time to time establish regulations relative to the business carried on and the rate of interest to be charged by them; and a pawnbroker shall not charge or receive upon any loan a greater rate of interest than that fixed by the licensing board.

Accounts, etc., of pledges, etc. 1895, 497, § 4.

SECTION 42. Every such pawnbroker shall keep a book in which, at the time of making such loan, shall be legibly written in the English language, an account and description of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging them, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging such goods, articles or things.

Memorandum to pledgor. 1895, 497, § 5.

SECTION 43. Every such pawnbroker shall, at the time of making such loan, deliver to the person who pawns or pledges any goods, article or thing, a memorandum or note signed by him and containing the substance of the entry required to be made in his book by the provisions of the preceding section. No charge shall be made or required by any pawnbroker for such entry, memorandum or note.

Books to be open to inspection. 1895, 497, § 6. 1898, 515.

SECTION 44. Said book shall, at all reasonable times, be open to the inspection of the mayor, of the members of the board of police, of the superintendent of police and deputy superintendents, of the chief inspector of police, of any member of the district police or of any person authorized by them in writing for that purpose who exhibits such written authority to such pawnbroker.

Penalties. 1895, 497, § 7.

SECTION 45. Whoever violates the provisions of the six preceding sections shall be punished by a fine of not less than fifty nor more than three hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Licensed pawnbrokers, certain exemptions of.

SECTION 46. The provisions of sections forty-seven to sixty-seven, inclusive, shall not apply to licensed pawnbrokers.

1890, 416, §§ 1, 6. 1892, 428, § 6. 1898, 577, § 11.

LOANS OR PLEDGES ON PERSONAL PROPERTY.

Loans or pledges on collateral security of household goods, etc. 1890, 416, §§ 1, 2.

SECTION 47. Every person who is engaged in the business of making loans on collateral security represented by household goods, wearing apparel, watches, diamonds, jewelry or other articles of personal use or ornament, or on notes secured by pledge or mortgage of any such property, and with whom such property is deposited, or who purchases such property on condition of selling it back again at a stipulated price, or who pays or advances money thereon under such circumstances that it may be inferred from the character of the transaction that such property may afterward be redeemed, shall keep a book in which, for the purpose of identification, shall be recorded, at the time of each loan or transaction, a full and accurate description of the goods, articles or things pledged or deposited, with any designating numbers or marks and also the name and residence of the borrower or depositor, and each transaction shall be specifically numbered in said book. He shall also give to each borrower or depositor a receipt, ticket or card, numbered to correspond with the number of the transaction on said book, inscribed with the name of the lender, the article pledged, the description of the property as above required, the name of the borrower or depositor, the amount of the loan, the date when made and the date when payable.

Record book to be open to inspection. 1890, 416, § 3.

SECTION 48. Said book shall at all times be open to the inspection of the board of police, of the superintendent and chief inspector of police of the city of Boston, of the chief of the district police and of the chief of police and selectmen of their respective cities or towns, or of an officer specially authorized by them in writing for that purpose, who exhibits such written authority; and the property described in said book shall, on demand, be exhibited to said officers.

Articles pledged to be retained, when. 1890, 416, § 5.

SECTION 49. If it appears to any of the officers mentioned in section forty-eight that any articles which have been pledged as herein provided have been stolen, he may give notice in writing to the pledgee to hold such articles and they shall thereafter be held by the pledgee for sixty days unless said notice shall be recalled in writing by the officer giving it, subject to inspection and examination at all reasonable times; and they shall be produced upon notice or summons by the district attorney or other prosecuting officer before any court or grand jury, if the question of the larceny of the same is under investigation, and said pledgee shall not be liable in damages or otherwise on account of such detention.

Penalties for refusing inspection, etc. 1890, 416, § 4.

SECTION 50. Every person who is engaged in said business as aforesaid, his agent or other person in charge thereof, who fails or refuses to allow the inspection of said book, or who wilfully hinders, obstructs or prevents said officers from making said inspection or from examining said property as provided in section forty-eight, or wilfully violates any other provisions of the three preceding sections, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

SECTION 51. A loan of less than one thousand dollars shall be discharged upon payment or tender by the debtor of the principal sum actually borrowed and interest at the rate of eighteen per cent per annum from the time said money was borrowed and a sum not exceeding five dollars for the actual expenses of making and securing the loan; but the lender shall be entitled to interest for six months at said rate if the debt is paid before the expiration of that period. All payments in excess of said rate shall be applied to the discharge of the principal, and the borrower shall be obliged to pay or tender only the balance of the principal and interest, at said rate, due after such application. The provisions of this section shall not affect any loan made at a less rate than at the rate of eighteen per cent per annum, nor shall it affect so much of section three of chapter seventy-three as provides that if there is no agreement for a different rate the interest of money shall be at the rate of six dollars upon each hundred dollars for a year.

Small loans, how dischargeable. 1888, 388. 1892, 428, § 1. 148 Mass. 233. 160 Mass. 237. 163 Mass. 322. 165 Mass. 258. 170 Mass. 517.

SECTION 52. If a loan of less than one thousand dollars is secured by a mortgage or pledge of personal property, the mortgagee or pledgee shall discharge such mortgage and restore such pledge upon payment or tender to him of the amount legally due under the provisions of sections fifty-one to fifty-five, inclusive, and such payment or tender may be made by the debtor, or by a person having an interest in the property mortgaged or pledged.

Mortgage of personalty, how discharged. 1892, 428, § 2.

SECTION 53. A mortgage of household furniture on which interest is charged at the rate of eighteen per cent or more per annum, made to secure a loan of less than one thousand dollars, shall not be valid unless it states with substantial accuracy the amount of the loan, the time for which the loan is made, the rate of interest to be paid and the actual expense of making and securing the loan, nor unless it contains a provision that the debtor shall be notified in the manner provided in section five of chapter one hundred and ninety-eight, of the time and place of any sale to be made in foreclosure proceedings at least seven days before such sale.

Mortgage on furniture to state amount of loan. 1892, 428, § 3. 165 Mass. 304.

SECTION 54. A notice of intention to foreclose a mortgage of personal property, which is given to secure loans of less than one thousand dollars, under the provisions of sections five and eight of chapter one hundred and ninety-eight, shall not be valid unless it expressly states where such notice is to be recorded, and that the right of redemption will be foreclosed sixty days after such recording.

Notice to foreclose invalid, when. 1892, 428, § 4.

SECTION 55. Whoever refuses or neglects after request to discharge a mortgage or to restore the property held as a pledge, as provided in section fifty-two, shall be liable in an action of tort to the borrower for all damages resulting to him from any violation of the provisions of said section.

Liability for refusal to discharge mortgage. 1892, 428, § 5.

SECTION 56. The provisions of the five preceding sections shall not apply to any loan of less than two hundred dollars made by a person who holds a license under the provisions of sections fifty-seven to sixty-seven, inclusive, nor to licensed pawnbrokers, nor

Not to apply to licensed pawnbrokers. 1890, 416, § 6. 1892, 428, § 6. 1898, 577, § 11.

affect section thirty-five of this chapter or section four of chapter one hundred and ninety-eight.

Lenders on personal property to be licensed. 1898, 577, § 1. 176 Mass. 19.

SECTION 57. No person, corporation or partnership shall engage in the business of making loans secured by mortgage or pledge of household furniture or other personal property exempt from attachment, or by assignment of wages for personal service, for less than two hundred dollars nor at a rate of interest greater than twelve per cent, without first obtaining a license for carrying on such business in the city or town in which such business is to be transacted. Such licenses may be granted in Boston by the board of police, in other cities, by the mayor and aldermen, and in towns, by the selectmen.

Requirements for license. 1898, 577, § 2.

SECTION 58. Such license shall not be granted until the applicant therefor shall have filed with the board authorized to grant it a statement under oath, which, in case of a corporation, may be made by the president or agent thereof in charge of such business, stating the place in the city or town where the business is to be carried on, the name and the private and business address of the applicant, and, in case of a corporation, the state under the laws of which it is organized, and the name and private address of the clerk or secretary and the agent or other officer having charge of its proposed business, nor until the applicant, unless excused by the licensing board, files with said board a power of attorney, appointing a person satisfactory to the board to be his attorney, upon whom all lawful processes may be served in any action or proceeding arising under the provisions of sections fifty-seven to sixty-seven, inclusive, with the same effect as if served upon such applicant. If any change occurs in the name or address of a licensee, or of the clerk, secretary or agent aforesaid of any licensed corporation, or in the place where the licensed business is carried on, or in the membership of any partnership licensed, a true and full statement of such change, sworn to in the manner required above in the case of the original statement, shall forthwith be filed with the licensing board, which may, at any time after hearing, revoke the license for cause.

Bond and judgment. 1898, 577, § 3.

SECTION 59. Such license shall not be issued until the licensee gives to the treasurer of the city or town in which the business is to be carried on a bond in a penal sum to be fixed by the licensing board, with surety or sureties approved by the licensing board, conditioned for the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed, and the prompt payment of any judgment recovered against him or for which any one of the licensees may be liable under the provisions of sections fifty-seven to sixty-seven, inclusive; but no suit at law or in equity shall be commenced against said sureties on such bond for thirty days after judgment against said licensee. If, in any case at law or in equity against the licensee under the provisions of sections fifty-seven to sixty-seven, inclusive, it appears that the plaintiff is entitled to judgment or decree, except for proceedings in bankruptcy or insolvency, or the discharge therein of the licensee, the court may at any time, on motion, enter a special judgment or

decree for the plaintiff for the amount of his debt, damages and costs, or for such other relief as he may be entitled to, and such bond shall be conditioned for the payment of such special judgment and compliance with such decree. Whoever is aggrieved by a breach of the condition of such bond may sue thereon at his own expense and in his own behalf, but in the name of the obligee; and if judgment shall be entered for the defendant for costs, execution therefor shall issue against the person for whose benefit the suit is brought as if he were the plaintiff of record, but not against the obligee. In such suit like proceedings shall be had as in a suit by a creditor on an administration bond. The licensing board may, at any time, require the licensee to file an additional bond of like nature and with like effect, and to give full information as to all judgments recovered, or suits pending, on his bond. Upon failure to file any such bond required the license shall be revoked.

Expense of securing loan. 1898, 577, § 4.

SECTION 60. In the case of a loan to which the provisions of sections fifty-seven to sixty-seven, inclusive, apply, an amount not exceeding two dollars, if the loan does not exceed twenty-five dollars, not exceeding ten dollars, if the loan exceeds one hundred dollars, not exceeding three dollars, if the loan exceeds twenty-five dollars but does not exceed fifty dollars, and not exceeding five dollars, if the loan exceeds fifty dollars but does not exceed one hundred dollars, may, if both parties to the loan so agree, be paid by the borrower or added to the debt, and taken by the lender as the expense of making and securing the loan, and such amount shall not be counted as part of the interest of such loan. A greater amount than as above specified shall not be taken for such purpose, and any money paid, promised or taken in excess of such amount shall be deemed to be interest.

Regulations and rate of interest. 1898, 577, § 5.

SECTION 61. The licensing board shall from time to time establish regulations with reference to the business carried on by the parties so licensed and the rate of interest to be charged by them. Said board, in fixing said rate, shall have due regard to the amount of the loan and the time for which it is made; and no licensee shall charge or receive upon any loan a greater rate of interest than that fixed by the licensing board.

Recovery back of illegal interest. 1898, 577, § 6.

SECTION 62. If a greater rate of interest or amount for expenses than is allowed under the provisions of sections fifty-seven to sixty-seven, inclusive, has been paid upon any loan to which the provisions of said sections apply, the person who pays it may, by an action of contract or suit in equity, recover back the amount of the unlawful interest or expenses, with twice the legal costs and no more, if such action or suit is brought within two years after the time of payment.

Release of security. 1898, 577, § 7.

SECTION 63. If a loan to which the provisions of sections fifty-seven to sixty-seven, inclusive, apply is secured by mortgage or pledge of personal property or by an assignment of wages, the mortgage shall be discharged, the pledge restored or the assignment released upon payment or tender of the amount legally due under the provisions of said sections, and such payment or tender

may be made by the debtor, by any person duly authorized by him or by any person having an interest in the property mortgaged or pledged or in the wages assigned. Whoever refuses or neglects, upon request, to discharge a mortgage, release an assignment or restore a pledge to the party entitled to receive the same, after payment of the debt secured thereby or the tender of the amount due thereon as aforesaid, shall be liable in an action of tort to the borrower for all damages thereby sustained by him.

Mortgage, etc., invalid, when. 1898, 577, § 8.

SECTION 64. A mortgage or pledge of personal property or assignment of wages to which the provisions of sections fifty-seven to sixty-seven, inclusive, apply shall not be valid unless it states with substantial accuracy the actual amount of the loan, the time for which the loan is made, the rate of interest to be paid and the expense for making and securing the loan; nor unless it contains a provision that the debtor shall be notified, in the manner provided in section five of chapter one hundred and ninety-eight, of the time and place of any sale to be made in foreclosure proceedings, at least seven days before such sale. A notice of intention to foreclose under the provisions of sections five and eight of chapter one hundred and ninety-eight shall not be valid in such case, unless it expressly states where such notice is to be recorded and that the right of redemption will be foreclosed sixty days after such recording. At any time after twenty days from the date of any such mortgage, if the same has not been recorded, the holder thereof shall forthwith, on demand and payment or tender of one dollar, give to the mortgagor or any person interested in the mortgaged property, a copy of the mortgage and note or obligation secured thereby, which such holder or holders shall certify to be a true copy thereof.

Receipt. 1898, 577, § 9.

SECTION 65. If a payment is made on account of a loan to which the provisions of sections fifty-seven to sixty-seven, inclusive, apply, the person who receives the payment or his principal shall, when the payment is taken, give to the person paying, a receipt setting forth the amount then paid and the amount previously paid, and identifying the loan, note, mortgage or assignment to which it is to be applied.

Penalty. 1898, 577, § 10. 176 Mass. 19.

SECTION 66. Whoever, not being duly licensed as provided in sections fifty-seven to sixty-seven, inclusive, on his own account or on account of any other person, partnership or corporation not so licensed, engages in or carries on, directly or indirectly, either separately or in connection with or as a part of any other business, the business of making loans to which the provisions of sections fifty-seven to sixty-seven, inclusive, apply, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Application of preceding sections. 1898, 577, § 11.

SECTION 67. The provisions of the ten preceding sections shall not affect so much of section three of chapter seventy-three as provides that if there is no agreement for a different rate the interest of money shall be at the rate of six dollars upon each hundred dollars for a year.

SECTION 68. Loan companies and loan associations, established by special charter and placed under the supervision of the board of commissioners of savings banks, shall be exempt from procuring a license from a local licensing board.

Exemption of certain companies. 1899, 261.

STABLES.

SECTION 69. No person shall erect, occupy or use for a stable any building in a city whose population exceeds twenty-five thousand unless such use is licensed by the board of health of said city, and, in such case, only to the extent so licensed. The provisions of this section shall not prevent any such occupation and use which was authorized by law on the fourth day of May in the year eighteen hundred and ninety-five, to the extent and by the person so authorized, but the board of health of such a city may make such regulations or orders relative to the drainage, ventilation, number of animals and the storage and handling of manure in any stable existing on said date in their respective cities as in their judgment the public health requires.

Erection, etc., of stables in certain cities regulated. 1890, 230, 395. 1891, 220, §§ 1, 3. 1895, 213, §§ 1, 2. 1896, 332. 1897, 300, § 3. 157 Mass. 12. 159 Mass. 409. 166 Mass. 83. 168 Mass. 79.

SECTION 70. No person shall erect, occupy or use a building, in a city whose population does not exceed twenty-five thousand, for a stable for more than four horses unless first licensed so to do by the board of health of said city, and in such case, only to the extent so licensed. No person shall, in a city, occupy or use a building for a livery stable or a stable for taking or keeping horses and carriages for hire or to let within two hundred feet of a church or meeting house erected and used for the public worship of God without the consent in writing of the religious society or parish worshipping therein; but the provisions of this section shall not prevent such occupation and use which was authorized by law on the seventeenth day of May in the year eighteen hundred and ninety-one, to the extent authorized at that time.

Stables in vicinity of church regulated. 1891, 220, §§ 1-3.

SECTION 71. Whoever violates the provisions of the two preceding sections or of a regulation or order made pursuant thereto, shall be punished by a fine of five dollars for each day such offence continues. The superior court shall have jurisdiction in equity to restrain such erection, occupation or use contrary to the provisions of said sections.

Penalty. 1891, 220, § 4. 1895, 213, § 3. 168 Mass. 79.

SECTION 72. The board of health in towns having a population of more than five thousand and the selectmen of other towns may license suitable persons to keep more than four horses in specified buildings or places within their respective towns, and may revoke such licenses at pleasure. Whoever, not being licensed as aforesaid, occupies or uses a building or place for a stable for more than four horses shall forfeit not more than fifty dollars for every month he so occupies or uses such building or place, and in like proportion for a shorter time. The superior court shall have jurisdiction in equity to restrain such occupancy or use without such license.

Stables in towns. 1851, 319. 1852, 129. 1853, 362. G. S. 88, § 32. P. S. 102, § 39. 1890, 230, 395. 1897, 428, § 2. 157 Mass. 12. 159 Mass. 409. 166 Mass. 83. 167 Mass. 380. 168 Mass. 79.

STEAM ENGINES AND FURNACES.

Steam engines, etc., to be licensed.
1845, 197, §§ 1, 5, 10.
1846, 96, §§ 1, 3.
G. S. 88, §§ 33, 34.
P. S. 102, §§ 40, 41.
1 Allen, 137.
140 Mass. 106, 109, 594.
166 Mass. 391.
175 Mass. 357.

SECTION 73. A furnace for melting iron or making glass, or a stationary steam engine designed for use in a mill for planing or sawing boards or turning wood or in which other fuel than coal is used to create steam, shall not be erected or put up to be used in a city or town in which the city council or the town accept the provisions of this and the eight following sections or have accepted the corresponding provisions of earlier laws, unless the mayor and aldermen or selectmen thereof have granted a license therefor, prescribing the place where the building shall be erected in which the steam engine or furnace is to be used and the materials and construction thereof, and have made such regulations as to the height of flues and protection against fire as they deem necessary for the safety of the neighborhood. Such license may be granted on a written application, and shall be recorded in the city or town records. The mayor and aldermen or selectmen shall assign a time and place for a hearing upon such application and cause at least fourteen days' public notice thereof to be given, at the expense of the applicant, in such manner as they may order.

Municipal regulation of steam engines, etc.
1845, 197, §§ 2, 10.
G. S. 88, § 35.
P. S. 102, § 42.

SECTION 74. In a city or town which accepts the provisions of sections seventy-three to seventy-seven, inclusive, or has accepted the corresponding provisions of earlier laws, the mayor and aldermen or the selectmen, after due notice in writing to the owner of such steam engine or furnace, except for making glass, erected or in use therein before the time of such acceptance and a hearing, may adjudge it to be dangerous or a nuisance to the neighborhood, and make and record an order prescribing such rules, restrictions and alterations as to the building in which it is constructed or used, the construction and height of its smoke flues, and such other regulations as they deem necessary for the safety of the neighborhood; and the city or town clerk shall deliver a copy of such order to a constable, who shall serve on the owner an attested copy thereof, and make return of his doings thereon to said clerk within three days after the delivery thereof to him.

Appeal.
1845, 197, §§ 6–9.
G. S. 88, §§ 36–39.
1873, 261.
P. S. 102, §§ 43–46.

SECTION 75. An owner of a steam engine or furnace who is aggrieved by such order may have the remedy prescribed by sections two, three and four of chapter one hundred and one. The superior court, on granting the application for a jury, may issue an injunction restraining the further use of such engine or furnace until the final determination of the application.

Stationary engine forbidden, when, etc.
1862, 74, §§ 1, 3.
P. S. 102, § 47.

SECTION 76. In a city or town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, a stationary engine, propelled by steam or other motive power, shall not be erected or put up for use within five hundred feet of a dwelling house or public building unless a license therefor has been first granted and recorded in the manner herein provided.

Engines, when nuisances.

SECTION 77. An engine or furnace which is erected or used contrary to the provisions of the four preceding sections shall be

deemed a common nuisance; and the mayor and aldermen or selectmen may remove the same in the same manner as boards of health may remove nuisances under the provisions of sections sixty-seven, sixty-eight and sixty-nine of chapter seventy-five.

1845, 197, §§ 3, 4, 10. 1846, 96, §§ 2, 3. G. S. 88, § 40. 1862, 74, § 2. P. S. 102, § 48.

ENGINEERS AND FIREMEN OF STATIONARY ENGINES.

SECTION 78. No person shall have charge of or operate a steam boiler or engine in this commonwealth, except boilers and engines upon locomotives, motor road vehicles, boilers in private residences, boilers in apartment houses of less than five flats, boilers under the jurisdiction of the United States, boilers used for agricultural purposes exclusively, boilers of less than eight horse power, and boilers used for heating purposes exclusively which are provided with a device approved by the chief of the district police limiting the pressure carried to fifteen pounds to the square inch, unless he holds a license as hereinafter provided. The owner or user of a steam boiler or engine, other than boilers or engines above excepted, shall not operate or cause to be operated a steam boiler or engine for a period of more than one week, unless the person in charge of and operating it is duly licensed.

Person in charge of certain boilers to be licensed. 1895, 471, § 1. 1896, 546, § 1. 1899, 368, § 1. [1 Op. A. G. 485.]

SECTION 79. If such steam engine or boiler is found to be in charge of or operated by a person who is not a duly licensed engineer or fireman and, after a lapse of one week from such time, it is again found to be operated by a person who is not duly licensed, it shall be deemed prima facie evidence of a violation of the provisions of the preceding section.

Prima facie evidence. 1899, 368, § 2.

SECTION 80. The words "have charge" or "in charge", in the two preceding sections, shall designate the person under whose supervision a boiler or engine is operated. The person operating shall be understood to mean any and all persons who are actually engaged in generating steam in a power boiler.

Definition. 1899, 368, § 5. [1 Op. A. G. 485.]

SECTION 81. Whoever desires to act as engineer or fireman shall apply for a license therefor to the examiner of engineers for the city or town in which he resides or is employed, upon blanks to be furnished by the examiner. The application shall be accompanied by a fee of one dollar and shall show his experience during the preceding three years or time of service. The applicant shall be given a practical examination and, if found competent and trustworthy, he shall receive, within six days after the examination, a license graded according to the merits of his examination, irrespective of the grade of license for which he applies. The applicant shall have the privilege of having one person present during his examination, who shall take no part in the same, but who may take notes if he so desires. No person shall be entitled to receive more than one examination within ninety days, except in the case of an appeal as hereinafter provided. A license shall continue in force for three years, or until it is revoked for the incompetence or untrustworthiness of the licensee; and a license shall remain revoked until a new license is granted. A license, unless revoked, shall be renewed by an examiner of engineers upon application and without

Granting of licenses; revocation; renewal. 1895, 471, §§ 2, 4. 1896, 546, §§ 2, 3. 1899, 368, §§ 3, 7. [1 Op. A. G. 485.]

examination, if the application for renewal is made within six months after its expiration. If a new license of a different grade is issued, the old license shall be destroyed in the presence of the examiner. If a license is lost by fire or other means, a new license shall be issued in its place, without re-examination of the licensee, upon satisfactory proof of such loss to an examiner.

Classes of licenses. 1895, 471, § 3. 1899, 368, § 4. 1900, 201.

SECTION 82. Licenses shall be granted according to the competence of the applicant, and shall be distributed in the following classes: — Engineers' licenses: — First class, unlimited in horse power. Second class, to have charge of and operate a boiler or boilers and an engine not exceeding one hundred and fifty horse power. Third class, to have charge of and operate a single boiler and an engine not exceeding fifty horse power. Firemen's licenses: — First, to operate any boiler or boilers. Second, to have charge of and operate low pressure heating boilers in which the pressure carried is less than twenty-five pounds to the square inch. A person who desires to have charge of or to operate a particular steam plant or type of plant may, if he files with his application a written request signed by the owner or user of said plant for such examination, be examined as to his competence for such service and no other, and if found competent and trustworthy shall be granted a license for such service and no other.

Horse power, how ascertained. 1899, 368, § 6.

SECTION 83. The horse power of a boiler shall be ascertained upon the basis of three horse power for each square foot of grate surface, for a power boiler, and on the basis of one and one-half horse power for each square foot of grate surface, if the boiler is used for heating purposes exclusively. The engine power shall be reckoned upon a basis of a mean effective pressure of forty pounds per square inch of piston for a simple engine; fifty pounds for a condensing engine; and seventy pounds for a compound engine, reckoned upon area of high pressure piston.

Appeal from decision of examiner. 1895, 471, § 7. 1896, 546, § 5. 1899, 368, § 9.

SECTION 84. A person who is aggrieved with the action of an examiner in refusing or revoking a license may, within one month after his decision, appeal therefrom to the remaining examiners, who shall together act as a board of appeal, and a majority of whom shall have the power to hear the parties and pass upon the subjects of appeal. The appellant may have the privilege of having one first class engineer present during the hearing of his appeal, but he shall take no part therein. The decision of the majority of such remaining examiners so acting shall be final if approved by the chief of the district police.

Licenses to be conspicuously displayed. 1899, 368, § 10.

SECTION 85. An engineer's or fireman's license, granted under the provisions of the seven preceding sections or the corresponding provisions of earlier laws, shall be placed so as to be easily read in a conspicuous place in the engine room or boiler room of the plant operated by the holder of such license.

Examiners of engineers; penalty. 1895, 471, §§ 5, 8. 1896, 546, §§ 4, 7.

SECTION 86. The boiler inspection department of the district police shall act as examiners and enforce the provisions of the eight preceding sections and whoever violates any of the provisions of

said sections shall be punished by a fine of not less than ten nor more than three hundred dollars or by imprisonment for not more than three months. A trial justice shall have jurisdiction of complaints for violations of the provisions of the eight preceding sections, and in such cases, may impose a fine of not more than fifty dollars. 1899, 368, §§ 8, 11.

ROCKETS, GUNPOWDER AND EXPLOSIVES.

SECTION 87. Whoever gives away, sells or offers for sale, or has in his possession with intent to sell, any of the fireworks called rockets, crackers, squibs or serpents, without a license from the mayor and aldermen of the city or the selectmen of the town, shall forfeit not more than ten dollars for each offence. P. S. 102, § 54. Penalty for selling rockets, etc., without license. 1805, 55. 1826, 3, § 1. R. S. 58, § 5. G. S. 88, § 46.

SECTION 88. Whoever sets fire to, or has in his possession with intent to set fire to, a rocket, cracker, squib or serpent, or throws any lighted rocket, cracker, squib or serpent within a city or town, without the license of the mayor and aldermen or selectmen, shall forfeit not more than ten dollars for each offence. P. S. 102, § 55. — for firing rockets, etc., without license. 1805, 55. 1826, 3, § 1. R. S. 58, § 6. G. S. 88, § 47.

SECTION 89. The city council of a city or a town may order that no gunpowder shall be kept within the limits thereof, unless it is well secured in tight casks or canisters; that no more than fifty pounds of gunpowder shall be kept or deposited in a shop, store or other building, or in a ship or vessel, which is within twenty-five rods of another building or of a wharf; that no more than twenty-five pounds of gunpowder shall be kept or deposited in a shop, store or other building within ten rods of another building; and that no more than one pound of gunpowder shall be kept or deposited in a shop, store or other building within ten rods of another building unless it is well secured in copper, tin or brass canisters, holding not more than five pounds each and closely covered with copper, brass or tin covers. Towns may order how gunpowder, etc., shall be kept. 1823, 149, § 1. 1828, 62, § 1. R. S. 58, § 7. 1847, 51. G. S. 88, § 48. P. S. 102, § 56.

SECTION 90. Whoever violates an order made under the provisions of the preceding section shall forfeit not more than twenty dollars; but the provisions of the three preceding sections shall not apply to a manufactory of gunpowder, nor prevent the transportation of gunpowder through a city or town or from one part thereof to another. Penalty for unlawfully keeping gunpowder. 1823, 149, § 3. 1828, 62, § 3. R. S. 58, § 9. G. S. 88, § 50. P. S. 102, § 57.

SECTION 91. The city council of a city and the selectmen of a town may adopt such rules and regulations as they consider reasonable relative to the sale or use of toy pistols, toy cannon and all other articles in which explosives of any kind are used, or of which such explosives form a part, and may affix penalties for a violation thereof not exceeding fifty dollars for each offence; but no such rule or regulation shall take effect until it has been approved, recorded and published, as provided in section twenty-six of chapter twenty-five. Use of dangerous articles. 1882, 272.

SECTION 92. Whoever sells or furnishes to a minor under the age of fifteen years any firearms or other dangerous weapon shall be punished by a fine of not less than ten nor more than fifty dollars Sale of weapons to minors forbidden. 1884, 76.

for each offence; but instructors and teachers may furnish military weapons to pupils for instruction and drill.

Storage and sale of gunpowder. 1882, 269.

SECTION 93. Whoever stores more than one pound of gunpowder or any other explosive or keeps it for sale in any building shall immediately, upon receipt thereof, deliver to the fire commissioner in Boston, to the chief engineer of the fire department of any other city or of a town, or to one of the firewards of a town having no fire department, a statement in writing of the amount thereof kept, or proposed to be kept, and a description of the building and part of the building in which it is kept, or proposed to be kept, sufficiently accurate for identification. No person shall store or keep for sale gunpowder or any other explosive in any other place. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

— of camphene. 1850, 165. G. S. 88, § 51. P. S. 102, § 58.

SECTION 94. Cities and towns may adopt ordinances, by-laws and regulations relative to the storage and sale of camphene or any similar explosive or inflammable fluid, and may affix penalties for breaches thereof of not more than twenty dollars for each offence.

Jurisdiction in equity. 1899, 242.

SECTION 95. The superior court shall have jurisdiction in equity, upon the petition of the commonwealth or of a city or town, respectively, to enforce the laws of the commonwealth and the ordinances and by-laws of such city or town relative to the blasting of rock, stone or other substance with gunpowder, dynamite or other explosive.

Explosives, how kept. 1877, 216, § 1. P. S. 102, § 59.

SECTION 96. No person, unless on military duty in the public service of the United States or of this commonwealth, shall keep, have or possess, in a building, place, vehicle or vessel, within one rod of a dwelling house, any explosive in quantity exceeding one-fifth of a pound in any way or manner prohibited by the provisions of the nine following sections, or by any ordinance or by-law which may be made in accordance with the provisions of the following section.

— manufacture, storage, etc., of. 1847, 51. 1877, 216, § 2. P. S. 102, § 60. 155 Mass. 533.

SECTION 97. The city council of a city or a town may make ordinances and by-laws, not inconsistent with the provisions hereof or with rules made by the board of railroad commissioners as authorized by section ninety-nine, for the protection of life and property, relative to the keeping, storage, use, manufacture or sale of explosives, and may regulate the transportation thereof through the streets or highways of such city or town, and affix penalties of not more than fifty dollars for each violation thereof.

— licenses for sale and use of. 1877, 216, § 3. P. S. 102, § 61.

SECTION 98. The mayor and aldermen and the selectmen, respectively, may license, upon such terms as may be prescribed in such ordinances or by-laws, the keeping, storage, transportation, use, manufacture or sale of explosives within the limits of such city or town.

Transportation regulated. 1871, 6[illegible] 1, 3.

SECTION 99. No railroad corporation, street railway company, steamboat company or other association, partnership or person en-

gaged in the transportation of passengers shall knowingly transport any explosives, in quantities exceeding the amounts hereinafter provided for, in any vehicle containing passengers, or in any vehicle attached to a railroad train or vehicle conveying passengers; nor in any case unless such explosives are plainly and legibly marked with the names of such explosives, and the words "*explosive*, — *dangerous*." The board of railroad commissioners shall from time to time make rules fixing the maximum amounts of various explosives which may be so carried in a public vehicle or in such railroad train or in a vehicle attached to such train. Such rules shall also define the method of packing such explosives so as to insure the greatest safety, and shall prescribe how the same shall be carried as freight on railroads, steamboats and by common carriers; and, being subscribed by the railroad commissioners, shall be published once in each of four successive weeks in one or more daily newspapers published in the cities of Boston, Worcester and Springfield; and a copy thereof, certified by one of said board, and a like certificate of the fact of their due publication, shall in all cases be conclusive proof of such rules and of the proper publication thereof.

1877, 216, § 4. 1878, 6. P. S. 102, § 62.

SECTION 100. No person shall deliver for transportation to a railroad corporation, street railway company or other association, partnership or person engaged in the transportation of passengers within this commonwealth, or take or place upon or in a car, boat or other vehicle of such corporation, company, association, partnership or person, with intent that the same shall be carried or transported thereon, any such explosive, unless it is packed and marked as provided in the preceding section and notice of the dangerous nature thereof is expressly given to the agent, servant or person to whom it is delivered, or to the agent, servant or person having at the time the management and control of the car, boat or other vehicle in or upon which the same is to be carried or transported. A common carrier may decline to receive or transport any such explosive in any manner whatever.

Transportation by passenger carriers forbidden. 1871, 6, § 2. 1877, 216, § 5. P. S. 102, § 63.

SECTION 101. Whoever knowingly violates or knowingly causes or permits the violation of any provision of the two preceding sections or knowingly transports or causes or permits the transportation of an explosive, in violation of the rules made by the board of railroad commissioners, shall be punished by a fine of not less than fifty nor more than five thousand dollars or by imprisonment in the state prison for not more than five years.

Penalties. 1871, 6, § 4. 1877, 216, § 6. P. S. 102, § 64.

SECTION 102. Any person who is duly authorized by the ordinances of a city or the by-laws of a town may enter the building or premises of any person licensed to sell explosives and examine and ascertain if the laws, rules and regulations relative thereto are strictly observed; and upon an alarm of fire may cause the explosives there deposited to be removed or destroyed, as the case may require.

Buildings may be entered and examined, etc. 1877, 216, § 9. P. S. 102, § 65.

SECTION 103. Whoever suffers injury by the explosion of an explosive which is being kept or transported contrary to the provisions of this chapter or of ordinances, rules or by-laws made as

Damages for injuries. 1877, 216, § 10. P. S. 102, § 66.

provided in sections ninety-seven and ninety-nine may recover damages therefor in an action of tort against the persons who so violate said provisions.

Fire commissioner in Boston may exercise powers.
1877, 216, § 11.
P. S. 102, § 67.

SECTION 104. The powers conferred on the city council of a city by the provisions of section ninety-seven may be exercised in the city of Boston, if the city council of said city so determine, by the fire commissioner or by any board to which said city may from time to time by ordinance delegate such powers.

"Explosive" defined.
1877, 216, § 12.
P. S. 102, § 68.
155 Mass. 533.

SECTION 105. The word "explosive" or "explosives", as used in sections ninety-six to one hundred and three, inclusive, and section one hundred and twenty, shall be understood to include gun cotton, nitro glycerine or any compound thereof, and any fulminate, or any substance intended to be used, by exploding or igniting the same, to produce a force to propel missiles or to rend apart substances, except gunpowder.

Preparation and sale of unsafe oils, etc., forbidden.
1867, 286, § 3.
1869, 152, § 2.
P. S. 102, § 69.
1885, 98, § 1.
104 Mass. 64.
118 Mass. 441.

SECTION 106. Whoever mixes for sale naphtha and illuminating oils, or naphtha and oils to be used for fuel in dwellings or other buildings where human life is endangered or exposed, or sells or offers for sale such mixture, or sells or offers for sale, except for remanufacture, illuminating or fuel oils made from coal or petroleum, which will evaporate a gas under one hundred degrees Fahrenheit, or ignite at a temperature of less than one hundred and ten degrees Fahrenheit, to be ascertained by the application of Tagliabue's or some other approved instrument, shall for each offence be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or by both such fine and imprisonment, and shall also be liable for any damage suffered by any person from the explosion or ignition of such oil thus unlawfully sold, or kept or offered for sale. Such oil thus unlawfully sold, or kept or offered for sale, and the casks or packages containing the same, shall be forfeited and sold, and the proceeds shall be equally divided between the informer and the commonwealth.

"Unsafe oils", etc., defined.
1867, 286, § 4.
1869, 152, § 3.
P. S. 102, § 70.
1885, 98, § 2.

SECTION 107. For the purposes of this chapter, illuminating or fuel oils made from coal or petroleum and having an igniting point of less than one hundred and ten degrees Fahrenheit, to be determined in the manner provided in the preceding section, shall be deemed to be mixed with naphtha, and shall be branded unsafe for illuminating purposes or for use as fuel.

Penalty for selling naphtha under assumed name.
1867, 286, § 5.
1869, 152, § 4.
P. S. 102, § 71.

SECTION 108. Whoever sells or keeps or offers for sale naphtha under an assumed name shall for each offence be liable to the penalties provided and subject to the liabilities set forth in section one hundred and six.

Inspectors of petroleum.
1867, 286, §§ 1, 2.
1869, 152, § 1.
P. S. 59, § 6.
118 Mass. 548.

SECTION 109. The mayor and aldermen of a city, the selectmen of a town of more than fifteen hundred inhabitants and, upon the written application of five or more citizens of a town of less than fifteen hundred inhabitants, the selectmen thereof, shall annually appoint and fix the compensation of one or more inspectors of petroleum who, before entering upon their official duties, shall be sworn

and who shall not be interested in the sale of crude petroleum or in the sale or manufacture of petroleum or earth rock oil or in any of their products. The compensation of said inspectors shall be paid by persons who require their services under the provisions of the following section.

Inspection of petroleum.
1866, 262, § 5.
1869, 152, § 11; 345, § 2.
P. S. 59, § 7.
1882, 250.

SECTION 110. No person shall sell or keep for sale, at retail, for illuminating purposes any kerosene, refined petroleum or any product of petroleum, unless it has been inspected and approved by an inspector authorized in this commonwealth. 1885, 122, § 1.

Regulation of sale by cities and towns.
1882, 250.
1885, 122, § 1.

SECTION 111. Cities and towns may adopt ordinances, by-laws and regulations, not inconsistent with law, relative to the inspection of the oils named in the preceding section which have not been inspected and approved by an inspector.

Penalties.
1866, 262, § 3.
1869, 152, §§ 1, 11; 345, § 2.
P. S. 59, §§ 6, 7.
1882, 250.
1885, 122, § 2.

SECTION 112. Whoever violates the provisions of the two preceding sections or, being an inspector appointed under the provisions of section one hundred and nine, is guilty of fraud, deceit or culpable negligence in the performance of his duties shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or by both such fine and imprisonment.

Crude petroleum, etc., how stored, etc.
1866, 285, § 1.
1869, 152, § 5.
P. S. 102, § 72.
107 Mass. 188.

SECTION 113. Crude petroleum or any of its products may be stored, kept, manufactured or refined in detached and properly ventilated buildings specially adapted to the purpose and surrounded by an embankment so constructed as effectually to prevent the overflow of said petroleum or of any of its products beyond the premises connected therewith. Such building shall be occupied in no part as a dwelling, and, if less than fifty feet from another building, shall be separated therefrom by a stone or brick wall at least ten feet high and twelve inches thick; and a person keeping such articles in any other kind of building, except as is hereinafter provided, shall be punished as provided in the preceding section.

Building for the storage, etc., of petroleum to be licensed.
1866, 285, § 2.
1869, 152, § 6.
P. S. 102, § 73.
1894, 399, §§ 1, 3.
107 Mass. 188.
168 Mass. 388.

SECTION 114. No building shall be erected or used in any city or town for the storage, keeping, manufacture or refining of crude petroleum or any of its products unless the mayor and aldermen or selectmen thereof have granted a license therefor, prescribing the place where such building shall be erected, and the particular location, materials, construction thereof, and such regulations as to the height of chimneys, dimensions of building and protection against fire as they deem necessary for the safety of the neighborhood; but neither the provisions of this section nor any regulations made under its authority shall apply to a building lawfully used for such purposes prior to the eighteenth day of May in the year eighteen hundred and ninety-four. Such license shall continue in force until the first day of April next succeeding the date thereof, unless sooner revoked, and shall be revocable at any time by the authorities who granted it.

Application for licenses, etc.
1894, 399, § 2.

SECTION 115. Such license may be granted upon written application, and shall be recorded in the city or town records. The mayor

and aldermen or selectmen shall assign a time and place for a hearing on such application, and cause at least fourteen days' public notice thereof to be given at the expense of the applicant, in such manner as they may direct.

Penalties.
1866, 285, § 2.
1869, 152, § 6.
P. S. 102, § 73.
1894, 399, § 4.

SECTION 116. Whoever erects, occupies or uses a building in violation of the provisions of section one hundred and fourteen, or of any license or regulations granted or made thereunder, shall be punished as provided in section one hundred and twelve.

Enforcement of preceding sections.
1894, 399, § 5.

SECTION 117. The supreme judicial court and the superior court shall have jurisdiction in equity to restrain the erection, occupation or use of a building in violation of the provisions of section one hundred and fourteen or of any license or regulation granted or made thereunder.

Oils not to remain in streets.
1869, 152, § 8.
P. S. 102, § 74.

SECTION 118. None of the articles named in sections one hundred and six to one hundred and fourteen, inclusive, shall be allowed to remain in a street, lane, alley or travelled way, upon a wharf, in a yard, or on the grounds of a railroad corporation, in a city, for more than twenty-four hours or in a town, for more than forty-eight hours, without a special permit from the mayor and aldermen or selectmen, or from a person authorized by them. Whoever so keeps such articles for a longer time shall be punished by a fine of not more than fifty dollars for each offence.

By-laws, etc., to regulate manufacture, etc.
1866, 285, § 3.
1869, 152, § 9.
P. S. 102, § 75.

SECTION 119. Cities and towns may adopt ordinances, by-laws and regulations, not inconsistent with the provisions of this chapter, relative to the manufacture, mixing, storing, keeping or sale of any of the articles named in sections one hundred and six to one hundred and fourteen, inclusive, and may affix penalties for breaches thereof, not exceeding fifty dollars for each offence; and reasonable notice of such ordinances, by-laws or regulations shall be given.

Search warrant for gunpowder, etc.
1823, 149, § 2.
1828, 62, § 2.
R. S. 58, § 8.
1847, 51.
G. S. 88, § 49.
1869, 152, § 7.
1877, 216, § 7.
P. S. 102, §§ 76–78.

SECTION 120. Upon complaint made to a court or justice authorized to issue warrants in criminal cases that the complainant has probable cause to suspect and does suspect that gunpowder, gun cotton or other substance prepared like it for explosion, or that other explosives are kept or are to be found in any place contrary to law, or that any of the articles enumerated in sections one hundred and six to one hundred and fourteen, inclusive, are offered for sale or are kept contrary to the provisions of law, such court or justice may issue a search warrant in conformity with the provisions of chapter two hundred and seventeen, so far as applicable, commanding the officer to whom the warrant is directed to enter any shop, building, manufactory, vehicle or vessel specified in the warrant, and there make diligent search for the articles specified in the warrant and make return of his doings forthwith to the court or justice having jurisdiction thereof. Warrants issued for articles enumerated in sections one hundred and six to one hundred and fourteen, inclusive, may be directed to an inspector appointed under the provisions of section one hundred and nine, an engineer of a fire department or to a fireward.

SECTION 121. Any article kept or transported contrary to the provisions of this chapter and seized under the provisions of the preceding section may, after due notice and hearing, be adjudged to be forfeited and may be ordered to be sold or destroyed in such manner as the court or magistrate may direct, and the proceeds, if any, paid into the county treasury. Forfeiture of explosives. 1877, 216, § 8. P. S. 102, § 79.

SMOKE NUISANCE.

SECTION 122. The emission, except by locomotive engines or by brick kilns, into the open air of dark smoke or dense gray smoke for more than five minutes continuously, or the emission, except as aforesaid, of such smoke during ninety minutes of any continuous period of twelve hours, within a quarter of a mile of a dwelling, is hereby declared a nuisance, unless such emission is under a permit which may be granted annually by the mayor and aldermen of cities or the selectmen of towns. Smoke nuisance. 1901, 427, §§ 1, 5, 9.

SECTION 123. Such permit shall be signed by the mayor or by a majority of the board of selectmen and by the city or town clerk, and be recorded in the office of said clerk. It shall name the person, firm or corporation to whom or to which it is granted, and definitely and clearly describe the location and limits of the premises to which it applies, and shall remain in force until the first day of May next after its date, unless sooner forfeited or rendered void. Notice of applications for such permit shall be published at the expense of the applicant in the manner prescribed by section fourteen of chapter one hundred relative to applications for liquor licenses. The board granting the permit may establish fees for its issue, not exceeding one dollar each, to be paid to the treasurer of the municipality. Permits. 1901, 427, §§ 5, 6, 8.

SECTION 124. If, before the expiration of the ten days following the publication of the notice, the owner of a dwelling within a quarter of a mile of the premises described therein gives written notice to the board having authority to grant the permit that he objects to the granting thereof, it shall not be granted, unless said board, after a public hearing of the persons interested, decides that no just ground for objection exists, or that the public good requires that it be granted; but the granting of a permit shall not prejudice any right of damages which a person may have under the laws of the commonwealth against the person receiving the permit. In case a permit is granted after objection is filed, and without a hearing as aforesaid, or without proper advertisement as herein provided, the owner of such dwelling may apply to the police, district or municipal court, or to a trial justice within whose jurisdiction the premises are situated, for a hearing in the case; and said court or trial justice, if it appears that said permit was granted without compliance with the provisions of this and the preceding section, shall revoke the permit, and notice of such revocation shall be sent to the board granting, and to the person receiving, the permit. Objection to permit. 1901, 427, § 7.

SECTION 125. The mayor of a city or the selectmen of a town may, in January of each year, designate some proper person or per- Enforcement of provisions. 1901, 427, §§ 3, 4.

sons who shall be charged with the enforcement of this section, the three preceding sections and the following section during the year in which they are appointed; but such designation shall be subject to change at any time. An officer so designated may apply to the supreme judicial court, or to the superior court, for an injunction to restrain the further operation of any furnace, steam boiler or boilers which are being operated in such a manner as to create a nuisance as above defined; and said court may after hearing the parties enjoin the further operation of such furnace, boiler or boilers.

Penalty.
1901, 427, § 2.

SECTION 126. Whoever commits such nuisance as is defined in section one hundred and twenty-two, or suffers the same to be committed on any premises owned or occupied by him, or in any way participates in committing the same, shall be punished by a fine of not more than one hundred dollars for each week during any part of which such nuisance exists.

Acceptance of provisions by city or town.
1901, 427, § 10.

SECTION 127. The provisions of the five preceding sections shall not be operative in a city unless they shall be, or the corresponding provisions of earlier laws have been, accepted by a majority vote of the city council of the city, nor operative in a town unless they shall be accepted by a majority of the voters of the town voting thereon at an annual town meeting.

DOGS.

Dogs to be licensed.
1797, 53, §§ 1, 2.
1798, 54, § 1.
1810, 109.
1812, 146, § 1.
R. S. 58, §§ 10, 12.
1850, 245.
1858, 139, §§ 1-3, 8.
1859, 225, §§ 1, 2.

SECTION 128. The owner or keeper of a dog which is three months old or over shall annually, on or before the thirtieth day of April, cause it to be registered, numbered, described and licensed for one year from the first day of May following, in the office of the clerk of the city or town in which said dog is kept. The owner or keeper of a licensed dog shall cause it to wear around its neck a collar distinctly marked with its owner's name and its registered number.

G. S. 88, § 52. 1867, 130, § 1. 1885, 292. 123 Mass. 245.
1864, 299, § 1. 1872, 330, § 1. 3 Allen, 101. 134 Mass. 537.
1865, 197, § 1. P. S. 102, § 80. 100 Mass. 136. 169 Mass. 354.

Licenses to be issued after May 1st, when.
1859, 225, § 10.
G. S. 88, § 55.
1863, 113.
1864, 299, § 2.
1867, 130, § 2.
1872, 330, §§ 1, 2.
P. S. 102, § 81.
1885, 292.
4 Allen, 584.
174 Mass. 74.

SECTION 129. The owner or keeper of a dog may at any time have it licensed until the first day of May following; and a person who becomes the owner or keeper of a dog after the first day of May, which is not duly licensed, and the owner or keeper of a dog not duly licensed which becomes three months old after the thirtieth day of April in any year shall, when it is three months old, cause it to be registered, numbered, described, licensed and collared as provided in the preceding section.

Fee for license.
1797, 53, § 2.
1824, 139, § 2.
R. S. 58, § 10.
1858, 139, § 3.
1859, 225, § 1.
G. S. 88, § 52.
1867, 130, § 1.
P. S. 102, § 82.
1890, 72.

SECTION 130. The fee for every license shall be two dollars for a male dog, and five dollars for a female dog, unless a certificate of a competent person who performed the operation has been filed with the city or town clerk that said female dog has been spayed and has thereby been deprived of the power of propagation, in which case the fee shall be two dollars.

Licenses of dogs kept for breeding purposes.
1887, 307.

SECTION 131. The owner or keeper of dogs kept for breeding purposes may annually receive a license authorizing him to keep such dogs upon the premises described in the license. If the num-

ber of dogs so kept does not exceed five, the fee for such license shall be twenty-five dollars, and if the number of dogs exceeds five, the fee shall be fifty dollars, and no fee shall be required for the dogs of such owner or keeper which are under the age of six months. The provisions of sections one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty and one hundred and thirty-seven shall not apply to licenses under the provisions of this section.

License to contain description, etc., of hydrophobia. 1877, 167, § 4. P. S. 102, § 83. 1886, 101, § 4.

SECTION 132. Every license issued to the owner of a dog shall have a description of the symptoms of hydrophobia printed thereon. Such description shall be supplied by the secretary of the state board of health to the clerks of the several cities and towns upon application therefor.

Disposition of fees. 1797, 53, § 3. 1824, 139, § 2. R. S. 58, § 11. 1858, 139, §§ 1, 4. 1859, 225, § 1. G. S. 88, § 53. 1864, 299, § 3. 1865, 197, § 2. 1867, 130, § 3. 1871, 41. P. S. 102, § 84. 1886, 259, § 2. 1887, 135. 1888, 320, § 2. 141 Mass. 479.

SECTION 133. The board of police for the city of Boston and the clerks of other cities and of towns shall issue said licenses, receive the money therefor and pay it into the treasuries of their respective counties, except in the county of Suffolk, on or before the first day of June and of December of each year, retaining to their own use twenty cents for each license, and shall return therewith a sworn statement of the amount of money thus received and paid over by them. They shall also keep a record of all licenses issued by them, of the names of the keepers or owners of dogs licensed and of the names, registered numbers and descriptions of all such dogs. If a city or town clerk neglects to pay over such money to the county treasurer as required by this section, the city or town may recover the amount thereof for the benefit of the county, with all damages sustained through such neglect, and interest, in an action on the official bond provided for in the following section.

Bonds of city and town clerks. 1888, 320, §§ 1, 3.

SECTION 134. City and town clerks, except in the city of Boston, shall give bond with sureties to their respective cities and towns, which, within ten days after their election and qualification, shall be approved by the mayor and aldermen or the selectmen, conditioned faithfully to account for all fees received for dog licenses and for the payment thereof, less their fees, into their respective county treasuries.

Separate account of dog fund to be kept. 1859, 225, § 1. G. S. 88, § 53. 1864, 299, § 4.

SECTION 135. Each county, city and town treasurer, except in the county of Suffolk, shall keep an accurate and separate account of all money received and expended by him under the provisions of this chapter relating to dogs. 1867, 130, § 4. P. S. 102, § 85.

License to be valid throughout the state. 1859, 225, § 11. G. S. 88, § 55. 1864, 299, § 5. 1867, 130, § 5. P. S. 102, § 86. 1884, 185. 134 Mass. 537.

SECTION 136. A license duly recorded shall be valid throughout the commonwealth, and may be transferred with the dog licensed thereunder; but it shall, in each case of transfer, be again recorded by the clerk of the city or town in which such dog is kept. No license shall be required to be recorded anew unless the dog shall have been kept in such city or town at least thirty days.

Penalty for keeping unlicensed dog. 1858, 139, § 1. 1859, 225, § 9.

SECTION 137. Whoever keeps a dog contrary to the provisions of this chapter shall, except as provided in section one hundred and thirty-nine, forfeit not more than fifteen dollars, which shall be paid

G. S. 88, § 56. 1864, 299, § 5. 1867, 130, § 5. P. S. 102, § 87. 1901, 120.

to the treasurer of the county in which the dog is kept; but, in the county of Suffolk, said sum shall be paid to the treasurer of the city or town in which said dog is kept.

15 Gray, 193. 2 Allen, 507. 12 Allen, 480. 107 Mass. 405. 128 Mass. 421. 169 Mass. 354. 170 Mass. 441. [1 Op. A. G. 603.]

Bloodhounds, etc., not to be kept, except. 1886, 340, § 1.

SECTION 138. No person shall keep or have in his care or possession any bloodhound, or any dog classed by dog fanciers or breeders as Cuban bloodhound, Siberian bloodhound, German mastiff or Great Dane, boarhound or Ulmer dog, whether said dog is in whole or in part of said species, unless such dog is kept solely for exhibition. In such case, he shall at all times be kept securely enclosed or chained, and shall not be allowed at large, even though in charge of a keeper, unless properly and securely muzzled.

Penalty. 1886, 340, § 2.

SECTION 139. Whoever keeps a dog described in the preceding section in violation of the provisions thereof shall forfeit fifty dollars, ten dollars of which shall be paid to the complainant and forty dollars to the treasurer of the county in which such dog is kept; but in the county of Suffolk, the forty dollars shall be paid to the treasurer of the city or town in which such dog is kept.

Dog to be removed or killed, when. 1886, 340, § 3.

SECTION 140. Within forty-eight hours after the conviction of any person for keeping any such dog contrary to the provisions of section one hundred and thirty-eight, the mayor of a city or chairman of the selectmen of a town within which such dog is kept shall order the person so convicted to remove such dog from the city or town. Notice in writing of the order for such removal shall be served by any police officer or constable of the city or town and, if such dog is not removed within twenty-four hours after service of such notice, the mayor or chairman of the selectmen shall in writing order such dog to be killed by any police officer or constable of such city or town who may, in the execution of such order, enter any premises within the limits of such city or town.

English bloodhounds excepted. 1892, 50.

SECTION 141. The provisions of the three preceding sections shall not apply to the English bloodhound of pure blood whose pedigree is recorded or would be entitled to record in the English bloodhound herd book.

Assessors to make lists of dogs. 1858, 139, § 2. 1859, 225, § 15. 1864, 299, § 6. 1867, 130, § 6. 1871, 41. P. S. 102, § 89.

SECTION 142. The assessors shall annually take a list of all dogs owned or kept in their respective cities or towns on the first day of May, with the owners' or keepers' names, and return the same to the city or town clerk, or, in Boston, to the board of police, on or before the first day of July. An owner or keeper of a dog who refuses to answer or answers falsely to the assessors relative to the ownership thereof shall be punished by a fine of not less than ten dollars, which, except in the county of Suffolk, shall be paid into the county treasury.

Unlicensed dogs to be killed. 1797, 53, § 4. 1798, 54, § 2. 1812, 146, § 2. R. S. 58, § 12.

SECTION 143. The mayor of each city and the chairman of the selectmen of each town shall annually, within ten days after the first day of July, issue a warrant to one or more police officers or constables, directing them forthwith to kill or cause to be killed all

dogs within such city or town which are not licensed and collared according to the provisions of this chapter, and to enter complaint against the owners or keepers thereof; and any person may, and every police officer and constable shall, kill or cause to be killed all such dogs whenever or wherever found. Such officers, other than those employed under regular pay, shall receive from the treasurers of their respective counties one dollar for each dog so destroyed; but in the county of Suffolk, they shall receive it from the treasurers of their respective cities or towns. Bills for such services shall be approved by the mayor of the city or chairman of the selectmen of the town in which said dogs are destroyed, and shall be paid from moneys received under the provisions of this chapter relating to dogs.

1858, 139, § 1. 1859, 225, §§ 4, 12. G. S. 88, §§ 58, 66. 1864, 299, § 7. 1867, 130, § 7. P. S. 102, § 90. 18 Pick. 262. 1 Met. 555. 15 Gray, 61. 11 Allen, 151. 100 Mass. 136. 109 Mass. 273, 275. 133 Mass. 240. [1 Op. A. G. 603.]

SECTION 144. Each police officer or constable to whom the warrant named in the preceding section is issued shall return the same on or before the first day of the October following to the mayor or chairman of selectmen issuing the same, and shall state in said return the number of dogs killed, the names of the owners or keepers thereof and whether all unlicensed dogs in his city or town have been killed, and the names of persons against whom complaints have been made under the provisions of this chapter and whether complaints have been entered against all the persons who have failed to comply with said provisions.

Officers to return warrants, etc. 1867, 130, § 8. P. S. 102, § 91.

SECTION 145. The mayor of each city and the chairman of the selectmen of each town shall annually, within ten days after the first day of October, sign and transmit to the district attorney of his district a certificate, under oath, stating that the warrant named in section one hundred and forty-three was issued and whether it has been duly executed and returned according to the provisions of this chapter. The district attorney shall prosecute city, town or county officers who fail to comply with said provisions.

Mayors, etc., to certify to district attorneys as to warrants. 1864, 299, § 8. 1867, 130, § 9. P. S. 102, § 92.

SECTION 146. The owner or keeper of a dog shall be liable in an action of tort to a person injured by it in double the amount of damages sustained by him.

Damage by dogs. 1791, 38, § 4. 1797, 53, § 5. 1798, 54, § 3.

1812, 146, § 3. R. S. 58, § 13. G. S. 88, § 59. P. S. 102, § 93. 20 Pick. 477. 12 Met. 291. 12 Cush. 278. 11 Gray, 29. 1 Allen, 191. 3 Allen, 101, 191. 117 Mass. 109. 123 Mass. 580. 128 Mass. 218, 598. 148 Mass. 85. 152 Mass. 7. 153 Mass. 347. 154 Mass. 347. 161 Mass. 182, 184. 172 Mass. 453.

SECTION 147. Any person may kill a dog which suddenly assaults him while he is peaceably walking or riding outside the enclosure of its owner or keeper; and any person may kill a dog found out of the enclosure or immediate care of its owner or keeper, worrying, wounding or killing neat cattle, sheep or lambs.

Dogs may be killed, when. 1791, 38, § 2. R. S. 58, § 14. G. S. 88, § 60. P. S. 102, § 94. 177 Mass. 200.

SECTION 148. If a person who has been so assaulted, or who finds a dog strolling outside of the enclosure or immediate care of its owner or keeper, within forty-eight hours after such assault or finding makes oath thereof before a police, district or municipal court or trial justice or before the clerk of the city or town in which the owner or keeper of the dog dwells and that he suspects the dog to be dangerous or mischievous, and gives notice thereof to its owner

Complaint as to dangerous dogs. 1791, 38, § 2. R. S. 58, § 16. G. S. 88, § 61. P. S. 102, § 95.

or keeper by delivering to him a certificate of such oath signed by such court or justice or clerk, the owner or keeper shall forthwith kill or confine such dog; and if he neglects so to do for twenty-four hours after such notice, he shall forfeit ten dollars.

After notice, any person may kill.
1791, 38, § 3.
R. S. 58, § 16.
G. S. 88, § 62.
1865, 197, § 4.
1867, 130, § 14.
P. S. 102, § 96.

SECTION 149. If such dog is licensed under the provisions of this chapter, the forfeiture under the provisions of the preceding section shall not be incurred unless the dog is proved to be mischievous or dangerous. Any person may kill a licensed dog which has been proved to be mischievous or dangerous under the provisions of this section if it is again found strolling outside of the enclosure or immediate care of its owner or keeper.

Liability of owner for further damage.
1791, 38, § 4.
R. S. 58, § 17.
G. S. 88, § 63.
P. S. 102, § 97.

SECTION 150. If a dog, after such notice to its owner or keeper, by such assault wounds any person or causes him to be wounded, or worries, wounds or kills any neat cattle, sheep or lambs, or does any other mischief, the owner or keeper shall be liable in an action of tort to the person injured thereby in treble the amount of damages sustained by him.

Loss from dogs worrying sheep, etc.
1715–16, 16, § 2.
1719, 20, § 2.
1728–9, 10.
1737–8, 10, § 2.
1744–5, 25, § 2.
1791, 38, § 4.
1858, 139, § 4.
1859, 225, § 6.
G. S. 88, § 64.
1864, 299, § 9.
1867, 130, § 10.
P. S. 102, § 98.
1886, 259.
1889, 454, § 1.
16 Gray, 125.
2 Allen, 207.
160 Mass. 186.

SECTION 151. Whoever suffers loss by the worrying, maiming or killing of his sheep, lambs, fowls or other domestic animals by dogs, outside the enclosure of the owners or keepers of such dogs, may, if the damage is done in a city, inform the officer of police of said city who shall be designated to receive such information by the authority appointing the police, and, if the damage is done in a town, may inform the chairman of the selectmen of the town wherein the damage was done, who shall proceed to the premises where the damage was done and determine whether the same was inflicted by dogs, and if so, appraise the amount thereof if it does not exceed twenty dollars. If in the opinion of said officer of police or chairman the amount of said damage exceeds twenty dollars, he shall appoint two disinterested persons, who, with himself, shall appraise under oath the amount thereof. The said appraisers shall also consider and include in such damages the labor and time necessarily expended in the finding and collecting of the sheep, lambs, fowls or other domestic animals so injured or separated and the value of those lost or otherwise damaged by dogs. The said officer of police or chairman shall return a certificate of the damages found, except in the county of Suffolk, to the treasurer of the county in which the damage is done, within ten days after such appraisal is made. The treasurer shall thereupon submit the same to the county commissioners, who, within thirty days, shall examine all such bills, and if any doubt exists, may summon the appraisers and all parties interested and make such examination as they may think proper, and shall issue an order upon the treasurer of the county in which the damage was done for all or any part thereof. The treasurer shall pay all orders drawn upon him for the above purpose in full on or after the first day of July in each year if the amount in his hands standing to the credit of the dog fund is sufficient therefor; otherwise, he shall pay such amount pro rata upon such orders in full discharge thereof on demand. The appraisers shall receive from the county, or in the county of Suffolk, from the city or town treasurer, out of the money received under the provisions of this chapter relating to dogs, one

dollar each for every such examination made by them; and the officer or the chairman of selectmen acting in the case shall receive twenty cents a mile one way for his necessary travel.

Rewards for killing dog. 1889, 454, § 2. 160 Mass. 186.

SECTION 152. The mayor and aldermen of a city or the selectmen of a town may offer a reward of not more than ten dollars for the killing of any dog found to have worried, maimed or killed any sheep, lambs, fowls or other domestic animals, thereby causing damages for which their owner may become entitled to compensation from the dog fund as provided for in the preceding section, or for evidence which shall determine to the satisfaction of such mayor and aldermen or such selectmen who is the owner or keeper of the dog by which such damage is done. The county commissioners, except in the county of Suffolk, are authorized and directed to pay the said reward from the dog fund upon a certificate signed by the mayor and aldermen or selectmen.

Hearing to determine ownership of dog. 1889, 454, § 3.

SECTION 153. If the mayor and aldermen of a city or the selectmen of a town determine, after notice to parties interested and a hearing, who is the owner or keeper of any dog which is found to have worried, maimed or killed any sheep, lambs, fowls or other domestic animals, thereby causing damages for which their owner may become entitled to compensation from the dog fund as provided for in section one hundred and fifty-one, they shall serve upon the owner or keeper of such dog a notice directing him within twenty-four hours to kill or confine the dog.

Penalty on owner for not confining dog. 1889, 454, § 4.

SECTION 154. A person who owns or keeps a dog, who has received such notice and does not within twenty-four hours kill such dog or thereafter keep it on his premises or under the immediate restraint and control of some person shall be punished by a fine of not more than twenty-five dollars; and any person may kill such dog if it is found strolling outside of the enclosure or immediate care of its owner or keeper.

Appointment of person to investigate damages, etc. 1889, 454, § 5. 1894, 309, § 1. 160 Mass. 186.

SECTION 155. The county commissioners, except in the county of Suffolk, shall appoint a suitable person residing in the county who shall, at the request of the chairman of the selectmen of a town or officer of the police designated as provided in section one hundred and fifty-one, investigate any case of damages done by a dog of which such chairman or officer shall have been informed as provided in said section, and if he believes that the evidence is sufficient to sustain an action against the owner or keeper of a dog as provided in section one hundred and sixty-two and believes that such owner or keeper is able to satisfy any judgment which may be recovered in such action, he shall, unless such owner or keeper before action brought pays him such amount in settlement of such damages as he deems reasonable, bring such action. It may be brought in his own name and in the county in which he resides, and he shall prosecute it. All awards received or recovered by him in such actions shall be paid over to the county treasurer and placed to the credit of the dog fund. The county treasurer shall pay out of the dog fund such reasonable compensation as the county commissioners shall allow to such person for his services

and necessary expenses and the reasonable expense of prosecuting such actions. The person appointed may be removed at any time by the county commissioners, and in counties in which he is appointed, the county treasurer shall not be authorized to bring such actions.

Person damaged to have choice of remedy.
1859, 225, § 8.
G. S. 88, § 65.
1864, 299, § 99.
1867, 130, § 10.
P. S. 102, § 99.

SECTION 156. The owner of sheep, lambs or other domestic animals which may have been worried, maimed or killed by dogs shall have his election to proceed under the provisions of section one hundred and fifty-one or of sections one hundred and forty-eight, one hundred and forty-nine and one hundred and fifty; but, having signified his election by proceeding in either mode, he shall not have the other remedy.

In absence of chairman of selectmen, who to act.
1867, 130, § 10.
P. S. 102, § 100.

SECTION 157. In the absence or illness of the chairman of the selectmen, any one of the selectmen of the town who may be duly informed of damage supposed to have been done by dogs shall discharge forthwith the duties imposed by section one hundred and fifty-one upon the chairman.

Selectmen may order dogs to be muzzled, etc.
1877, 167, §§ 1, 2.
P. S. 102, §§ 101, 102.

SECTION 158. The mayor and aldermen of a city or the selectmen of a town may order that any dog within the limits of such city or town, respectively, shall be muzzled or restrained from running at large during such time as shall be prescribed by such order. After passing such order and posting a certified copy thereof in two or more public places in such city or town, or, if a daily newspaper is published in such city or town, by publishing such copy once in such newspaper, the mayor and aldermen or selectmen may issue their warrant to one or more of the police officers or constables of such city or town, who shall, after twenty-four hours from the publication of such notice, kill all dogs found unmuzzled or running at large contrary to such order, and who shall receive such compensation therefor as is provided in section one hundred and forty-three.

Service of order. Penalty.
1877, 167, § 3.
P. S. 102, § 103.

SECTION 159. The mayor and aldermen or selectmen may cause service of such order to be made upon the owner or keeper of the dog by causing a certified copy thereof to be delivered to him; and if he refuses or neglects for twelve hours thereafter to muzzle or restrain such dog as so required, he shall be punished by a fine of not more than twenty-five dollars.

Penalty on town officers.
1858, 139, § 6.
1859, 225, § 13.
G. S. 88, § 66.
1864, 299, § 10.
1867, 130, § 11.
P. S. 102, § 104.

SECTION 160. A county, city or town officer who refuses or wilfully neglects to perform the duties imposed upon him by the provisions of this chapter relating to dogs shall be punished by a fine of not more than one hundred dollars, which shall be paid, except in the county of Suffolk, into the county treasury. Whoever is aggrieved by such refusal or neglect may report the same forthwith to the district attorney of his district.

In Suffolk, money from licenses to be paid into city treasury, etc.
1864, 299, § 12.
1867, 130, § 13.

SECTION 161. In the county of Suffolk, all money received for licenses or recovered as fines or penalties under the provisions of this chapter relating to dogs shall be paid into the treasury of the city or town in which said licenses are issued or said fines or penal-

ties recovered. All claims for damages done by dogs in Suffolk county shall be determined by appraisers as specified in section one hundred and fifty-one and, when approved by the board of aldermen or selectmen of the city or town in which the damage was done, shall be paid in full on the first Wednesday of January of each year by the treasurer of such city or town, if the gross amount received by him and not previously paid out under the provisions of this chapter relating to dogs is sufficient therefor; otherwise, such amount shall be divided pro rata among such claimants in full discharge of their claims.

1869, 250, § 1.
P. S. 102, § 105.

SECTION 162. The owner or keeper of a dog which is doing damage to sheep, lambs or other domestic animals shall be liable in an action of tort to the county for all damages so done which the county commissioners thereof have ordered to be paid, as provided in this chapter. The county treasurer may, and if so ordered by the county commissioners shall, bring such action. In the county of Suffolk, such owner or keeper shall be liable in like manner to the city or town for damages so done therein which the board of aldermen or selectmen, respectively, have so ordered to be paid; and the city or town treasurer may, and if so ordered by the board of aldermen or selectmen shall, bring such action.

Owner, etc., of dog liable to county or city, etc.
1858, 139, § 5.
1859, 225, § 7.
G. S. 88, § 64.
1864, 299, § 11.
1867, 130, §§ 12, 13.
P. S. 102, § 106.
160 Mass. 186.

SECTION 163. Money which is received by a county treasurer under the provisions of the preceding sections relating to dogs and is not paid out for damages shall, in January, be paid back to the treasurers of the cities and towns in proportion to the amounts received from such cities and towns; and the money so refunded shall be expended for the support of public libraries or schools. In the county of Suffolk, money so received by the city or town treasurer and not so paid out shall be expended by the school committee for the support of public schools.

Unexpended money, how appropriated.
1865, 197, § 3.
1867, 130, § 12.
1869, 250, § 1.
P. S. 102, § 107.

SECTION 164. The warrant required to be issued by the provisions of section one hundred and forty-three may be in the following form: —

Form of warrant for killing dogs.
1867, 130, § 16.
P. S. 102, § 108.

COMMONWEALTH OF MASSACHUSETTS.

[Seal.]

M , ss. To , constable of the city (or town) of .

In the name of the Commonwealth of Massachusetts, you are hereby required to proceed forthwith to kill or caused to be killed all dogs within the said town not duly licensed and collared according to the provisions of chapter one hundred and two of the Revised Laws, and you are further required to make and enter complaint against the owner or keeper of every such dog.

Hereof fail not, and make due return of this warrant with your doings therein, stating the number of dogs killed and the names of the owners or keepers thereof, and whether all unlicensed dogs in said city (or town) have been killed, and the names of persons against whom complaints have been made under the provisions of said chapter, and whether complaints have been made and entered against all the persons who have failed to comply with the provisions of said chapter, on or before the first day of October next.

Given under my hand and seal at aforesaid, the day of , in the year nineteen hundred and .

Mayor of [or Chairman of the Selectmen of]

Towns may make by-laws, etc.
1824, 139.
R. S. 58, § 10.
1850, 245.
1859, 225, § 14.
G. S. 88, § 67.
P. S. 102, § 109.
10 Met. 382.

SECTION 165. A city or town may make additional ordinances or by-laws relative to the licensing and restraining of dogs and may affix penalties of not more than ten dollars for a breach thereof; but such ordinances or by-laws shall relate only to dogs owned or kept in such city or town; and the annual fee required for a license under the provisions of section one hundred and thirty shall in no case be more than one dollar in addition to the amount required by said section.

Fines, etc., how recovered.
G. S. 88, § 68.
P. S. 102, § 110.

SECTION 166. All fines and penalties provided in the preceding sections relating to dogs may be recovered before a police, district or municipal court or trial justice in the county in which the offence was committed.

STALLIONS.

Registration of stallions.
1890, 334, § 1.

SECTION 167. The owner or keeper of a stallion for breeding purposes shall, before advertising the service thereof, file a certificate of the name, color, age, size and pedigree, as fully as obtainable, of said stallion, and of the name of the person by whom he was bred, with the clerk of the city or town in which said stallion is owned or kept, who shall, upon payment of a fee of twenty-five cents, record the same in a book to be kept for that purpose. Whoever neglects to make and file such certificate shall recover no compensation for the services of his stallion, and whoever knowingly and wilfully makes a false certificate shall be punished by a fine of one hundred dollars for each offence.

BILLIARD TABLES AND BOWLING ALLEYS.

Billiard tables, etc., to be licensed.
1857, 194, § 2.
G. S. 88, § 69.
1876, 147, §§ 1, 2.
1880, 94.
P. S. 102, § 111.
1885, 325, § 2.
127 Mass. 555.
133 Mass. 578.
140 Mass. 44.

SECTION 168. The mayor and aldermen of a city except Boston, and in Boston, the board of police, and the selectmen of a town, may grant a license to a person to keep a billiard, pool or sippio table or a bowling alley for hire, gain or reward, upon such terms and conditions as they deem proper, to be used for amusement merely but not for the purpose of gaming for money or other property, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive, and may revoke it at pleasure.

Penalty.
1857, 194, § 1.
G. S. 88, § 70.
1880, 94.
P. S. 102, § 112.
141 Mass. 420.

SECTION 169. Whoever without such license keeps or suffers to be kept in a house, building, yard, or dependency thereof, actually occupied or owned by him, a table for the purpose of playing at billiards, pool or sippio, or a bowling alley for the purpose of playing at bowls, for hire, gain or reward, or whoever for hire, gain or reward suffers any person to resort thereto for such purpose shall forfeit not more than one hundred dollars for each offence.

— for admitting minors.
1855, 429, § 1.
G. S. 88, § 71.
1866, 257.
1880, 94.
P. S. 102, § 113.

SECTION 170. The keeper of a billiard, pool or sippio room or table or bowling alley who admits a minor thereto without the written consent of his parent or guardian shall forfeit ten dollars for the first and twenty dollars for each subsequent offence.

8 Gray, 488. 98 Mass. 6.

— for unlawful erection of bowling alleys.

SECTION 171. Whoever erects, occupies or uses a building for bowling alleys, except in such part of a city or town as the mayor

and aldermen or selectmen order, shall forfeit not more than fifty dollars for every month he so occupies or uses such building, and in like proportion for a shorter time. The superior court shall have jurisdiction in equity to restrain such erection, occupancy or use without such order.

1851, 319. G. S. 88, § 73. P. S. 102, § 114.

THEATRICAL EXHIBITIONS, MASKED BALLS, ETC.

Theatrical exhibitions to be licensed.

SECTION 172. The mayor and aldermen of a city or the selectmen of a town may, except as provided in section forty-six of chapter one hundred and six, grant a license for theatrical exhibitions, public shows, public amusements and exhibitions of every description to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or by a ticket or voucher obtained for money or any valuable thing, upon such terms and conditions as they deem reasonable, and they may revoke or suspend such license at their pleasure; but they shall not grant a license for any such theatrical exhibitions, public shows, public amusements or exhibitions of any description whatever to be held upon the Lord's day, except for those named in section five of chapter ninety-eight.

1805, 98, §§ 1, 3. 1825, 152, §§ 1, 3. R. S. 58, § 1. 1849, 231, § 1. G. S. 88, § 74. P. S. 102, § 115. 1894, 353. 1895, 434, § 3. 6 Cush. 174. 7 Gray, 162. 164 Mass. 12. 168 Mass. 523. 177 Mass. 347.

Penalty and exception.

SECTION 173. Whoever offers to view, sets up, sets on foot, maintains, carries on, publishes or otherwise assists in or promotes any such exhibition, show or amusement, without such license, shall be punished by a fine of not more than five hundred dollars for each offence. The provisions of this section, however, shall not apply to public entertainments by religious societies for a religious or charitable purpose. 177 Mass. 347.

1805, 98, §§ 1, 3. 1825, 152, § 1. R. S. 58, § 2. 1849, 231, § 2. G. S. 88, § 75. 1880, 188. P. S. 102, § 116. 4 Cush. 74. 164 Mass. 12.

— when lager beer is sold.

SECTION 174. Whoever offers to view, sets up, sets on foot, maintains or carries on a theatrical exhibition, public show, concert or dance hall exhibition, of any description, at which lager beer or other intoxicating liquor is sold or exposed for sale with the consent of those who get up, set on foot or otherwise promote such exhibition or show, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than two years, unless such exhibition or show has been duly licensed as provided by section one hundred and seventy-two. The provisions of this section shall not authorize the licensing of the sale, at any exhibition or show, of liquor the sale of which is prohibited by law.

1858, 152. G. S. 88, § 76. P. S. 102, § 117.

— for getting up masked ball.

SECTION 175. Whoever gets up, sets on foot, causes to be published or otherwise aids in getting up and promoting a masked ball or other public assembly at which the company wear masks or other disguises and to which admission is obtained upon payment of money or the delivery of any valuable thing, or by a ticket or voucher obtained for money or any valuable thing, shall for the first offence be punished by a fine of not more than five hundred dollars, and for any subsequent offence by imprisonment for not more than one year.

1849, 231, § 3. G. S. 88, § 77. P. S. 102, § 118.

SKATING RINKS.

Skating rinks to be licensed. 1885, 196, § 1.

SECTION 176. The mayor and aldermen of any city except Boston, and in Boston, the board of police, and the selectmen of any town, may grant a license to any person to establish, keep open and maintain a skating rink to be used for the amusement of roller skating for hire, gain or reward upon such terms, conditions and regulations as they deem proper, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive.

Penalty. 1885, 196, § 2.

SECTION 177. Whoever, without such license, establishes, keeps open or maintains a skating rink, to be used for the amusement of roller skating, shall be punished by a fine of not more than five hundred dollars for each offence.

PICNIC GROVES.

Groves for picnics to be licensed. 1885, 309, §§ 1, 4; 323, § 2.

SECTION 178. In a city in which the board of aldermen or in a town which accepts the provisions of this and the two following sections or has accepted the corresponding provisions of earlier laws, the mayor and aldermen, or in Boston, the board of police, and the selectmen, respectively, may grant a license to any person to establish, let, keep open and maintain a grove to be used for picnics or other lawful gatherings and amusements for hire, gain or reward, upon such conditions and regulations as they deem proper, subject to the provisions of sections one hundred and eighty-six to one hundred and eighty-nine, inclusive.

Penalty for establishing groves without license. 1885, 309, § 2.

SECTION 179. Whoever, without such license, establishes, lets, keeps open or maintains, himself or by another, a grove to be used for picnics or other amusements for hire, gain or reward shall be punished by a fine of not more than one hundred dollars.

Peddling near picnic grove forbidden. 1887, 445.

SECTION 180. Whoever, not having his residence or regular place of business within one-half mile of a grove licensed in accordance with the provisions of section one hundred and seventy-eight, during the time of holding a picnic or other lawful gathering in such licensed grove and within one-half mile thereof hawks or peddles goods, wares or merchandise, or establishes or maintains a tent, booth, vehicle or building for vending provisions or refreshments without the consent of the licensee of such grove, or engages in gaming or horse racing, or exhibits or offers to exhibit any show or play, shall for each offence forfeit not more than twenty dollars.

STEAMBOATS ON INLAND WATERS.

Steamboats on inland waters to be licensed. 1876, 100, § 1. P. S. 102, § 120. 150 Mass. 221.

SECTION 181. The mayor and aldermen of a city or the selectmen of a town may license any person to run a steamboat for the conveyance of passengers on lakes, ponds or waters which are not within the maritime jurisdiction of the United States.

Form, etc., of licenses. 1876, 100, § 3. P. S. 102, § 121.

SECTION 182. Such licenses shall be granted for a term of not more than one year and shall be recorded by the clerk of the city or

town in which they are granted, who shall receive a fee of one dollar for recording each license. Every such license shall set forth the name of the steamboat, of the master and owner, and the number of passengers it is permitted to carry at any one time, shall be posted in a conspicuous place therein, and the number of passengers specified in such license shall in no case be exceeded.

Penalty.
1876, 100, §§ 2, 4.
P. S. 102, § 122.
150 Mass. 221.

SECTION 183. Whoever runs a steamboat for the conveyance of passengers on such waters without first obtaining such license from the mayor and aldermen of every city and the selectmen of every town within which such steamboat lands or receives passengers shall be punished by a fine of not more than fifty dollars for each offence.

GENERAL PROVISIONS.

Admission of children regulated.
1887, 446.

SECTION 184. Whoever, himself or by his servant or agent, admits a child under the age of thirteen years to any licensed public show or place of amusement, unless said child is accompanied by a person over the age of twenty-one years, shall, on complaint of a parent or guardian of said child or of the chief of police or a truant officer of the city or town in which said child is so admitted, be punished by a fine of not more than one hundred dollars; but the provisions of this section shall not apply to shows and amusements which take place before sunset.

Officers may enter billiard rooms, etc., to enforce laws.
1855, 429, § 2.
1859, 219.
G. S. 88, § 72.
1862, 222.
1880, 94.
P. S. 102, § 123.
1885, 196, § 3; 309, § 3.

SECTION 185. A sheriff, marshal or their deputies, a constable, police officer or watchman may at any time enter a billiard, pool or sippio room, bowling alley, skating rink, the licensed premises of a common victualler, or room connected therewith, or a grove required to be licensed under the provisions of section one hundred and seventy-eight, or any building therein, for the purpose of enforcing any law of the commonwealth; and whoever obstructs or hinders the entrance of such officer shall be punished by a fine of not less than five nor more than twenty dollars.

Certain licenses, how signed, and contents.
1839, 53, § 2.
1855, 121, § 2.
G. S. 88, §§ 26, 29.
1876, 147, § 1.
1879, 102, § 3.
1880, 84, 94.
P. S. 102, § 124.
1882, 258.
1885, 196, § 1; 309, § 1; 323, § 2.

SECTION 186. Licenses granted to keepers of intelligence offices, dealers in junk, old metals and second hand articles, pawnbrokers and keepers of billiard saloons, pool or sippio rooms or tables, bowling alleys, skating rinks and picnic groves, shall be signed by the clerk of the city or town in which they are granted, except in Boston, where they shall be signed by a majority of the board of police. Every such license shall, before being delivered to the licensee, be recorded by the clerk of the city or town, or in Boston, by the clerk of the board of police, in a book kept for that purpose. Such license shall set forth the name of the licensee, the nature of the business, and the building or place in such city or town in which it is to be carried on, and shall continue in force until the first day of May following, unless sooner revoked. The board issuing such a license shall, except as provided in section forty, receive, for the use of the city or town, such amount, not less than two dollars for each license, and in Boston, for a pawnbroker's license such amount, not less than ten dollars, as the board considers reasonable.

Term of such licenses.
1876, 147, § 2.

SECTION 187. Such licenses may be granted in April to take effect on the first day of May following. P. S. 102, § 125.

License applicable only to places specified.
1876, 147, § 3.
P. S. 102, § 126.

SECTION 188. A license issued as aforesaid shall not protect the holder thereof in a building or place other than that designated in the license unless consent to removal is granted by the licensing board.

Revocation of licenses.
1876, 147, § 4.
P. S. 102, § 127.

SECTION 189. Upon the revocation of such a license, such clerk shall note the revocation upon the face of the record thereof, and shall give written notice to the licensee by delivering it to him in person or by leaving it at the place of business designated in the license.

CHAPTER 103.

OF THE SUPERVISION OF PLUMBING.

Plumbers, etc., to be licensed.
1894, 455, § 1.

SECTION 1. No person, firm or corporation shall engage in or work at the business of plumbing, either as a master or employing plumber or as a journeyman plumber, unless he or it has received a license or certificate therefor in accordance with the provisions of this chapter. The words "practical plumber", as used in this chapter, shall mean a person who has learned the business of plumbing by working for at least two years as an apprentice or under a verbal agreement for instruction, and who has then worked for at least one year as a first class journeyman plumber. The word "journeyman", as used in this chapter, shall mean a person who himself does any work in plumbing which is by law, ordinance, by-law, rule or regulation subject to inspection.

Examination of applicants.
1894, 455, § 2.

SECTION 2. Any person who, not having been engaged in or working at the business of plumbing prior to the tenth day of July in the year eighteen hundred and ninety-three, desires to engage in or work at said business, either as a master or employing plumber or as a journeyman plumber, shall apply to the board of health of the city or town in which he intends to engage in or work at said business, or to the inspector of buildings in cities or towns in which such inspector has control of the enforcement of the regulations relative to plumbing, and shall, at a time and place designated by the board of examiners provided for in the following section, to whom such applications shall be referred, be examined as to his qualifications for such business. A license, or the certificate of a plumber registered prior to the first day of September in the year eighteen hundred and ninety-four, issued to one member of the firm or the manager of the corporation shall satisfy the requirements of this chapter.

Boards of examiners of plumbers.
1893, 477, § 3.
1894, 455, § 3.

SECTION 3. In every city, and in every town of five thousand inhabitants or more, and in every town having a system of water supply or sewerage, there shall be a board of examiners of plumbers consisting of the chairman, or such other member of the board of health as said board may designate, and the inspector of buildings in cities and towns having such inspector, who shall be members ex

officiis and serve without compensation, and of a third member who shall be a practical plumber and who shall have had continuous practical experience either as a master or as a journeyman during the five years last preceding the date of appointment. Said third member shall annually, before the first day of June, be appointed by the board of health of said city or town for a term of one year and shall be paid by the city or town not more than five dollars for each day of actual service. If, in any city or town there is no inspector of buildings, the board of health shall also appoint the second member of said board of examiners, whose term of office and compensation shall be the same as that of said third member.

Licenses, fees, etc. 1893, 477, § 4. 1894, 455, § 4.

SECTION 4. The board of examiners shall, as soon as may be after the appointment of said third member, choose a chairman, and shall then designate the times and places for the examination of all applicants for licenses to engage in or work at the business of plumbing within their respective cities or towns. The board shall examine each applicant as to his practical knowledge of plumbing, house drainage and plumbing ventilation, shall subject him to a satisfactory practical test and if satisfied of his competence shall so certify to the board of health or inspector of buildings who shall thereupon issue to him a license authorizing him to engage in or work at the business of plumbing, either as a master or employing plumber or as a journeyman plumber. Said licenses shall be valid and have force throughout the commonwealth, and shall be renewed annually upon a payment of a fee of fifty cents. Upon the removal of a licensee from the city or town of the board or inspector issuing the original license, it may be renewed by any board having like authority. The fee for a license for a master or employing plumber shall be two dollars, and for a journeyman plumber, fifty cents.

Inspectors of plumbing. 1893, 477, § 5. 1894, 455, § 5. 1895, 453.

SECTION 5. The inspector of buildings of each city and town which is subject to the provisions of this chapter, if he has control of the enforcement of the regulations relative to plumbing or, if he has not such control, the board of health, shall, within three months after the acceptance of the provisions of this chapter, appoint one or more inspectors of plumbing, who shall be practical plumbers and shall have had practical experience, either as masters or as journeymen, continuously, during the five years last preceding the date of appointment, and who shall hold office until removed by said board or inspector for cause shown. All such inspectors shall, before appointment, be subjected to an examination before the civil service commission. The compensation of such inspectors shall be determined by the board or inspector appointing them, subject to the approval of the city council or selectmen, and shall be paid from the treasury of their respective cities or towns. Said inspectors shall inspect all plumbing for which permits are granted within their respective cities or towns, which is in process of construction, alteration or repair, and shall report to said board or inspector all violations of any law, ordinance, by-law, rule or regulation relative to plumbing; and also perform such other appropriate duties as may be required. The approval of plumbing by any inspectors other than those provided for by this chapter shall not be a compliance with the provisions hereof.

Additional inspectors, appointment, etc. 1894, 455, § 6.

SECTION 6. No inspector of plumbing shall inspect or approve any plumbing work done by himself, or by any person by whom he is employed, or who is employed by or with him, but in a city or town which is subject to the provisions of this chapter the inspector of buildings or the board of health, as provided in the preceding section, shall appoint an additional inspector of plumbing, in the same manner and subject to the same qualifications as the regular inspector of plumbing, who shall inspect, in the manner prescribed in this chapter, plumbing done by the regular inspector or by any person by whom he is employed, or who is employed by or with him. Said additional inspector may act in case of the absence or inability of the regular inspector, and shall receive for his services the same compensation as the regular inspector for a like duty. The provisions of this section shall not apply to any city or town which has established or shall establish an annual salary for the inspector of plumbing, and in any such city or town, the inspector of plumbing shall not engage in or work at the business of plumbing.

Regulation of plumbing, fixtures, etc. 1888, 105, § 1. 1893, 477, § 6. 1894, 455, § 7. 1895, 453, § 1. [1 Op. A. G. 290.]

SECTION 7. Each city, except Boston, the city council of which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws and each town of five thousand inhabitants or more, or which has a system of water supply or sewerage, shall by ordinance or by-law prescribe regulations for the materials, construction, alteration and inspection of all pipes, tanks, faucets, valves and other fixtures by and through which waste water or sewage is used and carried; and shall provide that such pipes, tanks, faucets, valves or other fixtures shall not be placed in any building in such city or town, except in accordance with plans approved by the inspector of buildings, if he has control as provided in section five, or if he has not such control, by the board of health; and shall further provide that no plumbing shall be done, except to repair leaks, without a permit first being issued therefor, upon such terms and conditions as such cities or towns shall prescribe. The provisions of this section shall not prevent boards of health from making such regulations relative to plumbing and house drainage authorized by law prior to the sixth day of July in the year eighteen hundred and ninety-four as are not inconsistent with any ordinance or by-law made under the authority of this section.

Penalties. 1888, 105, § 2. 1893, 477, § 7. 1894, 455, § 8.

SECTION 8. Whoever violates any provision of this chapter or any ordinance, by-law or regulation made hereunder shall be punished by a fine of not more than fifty dollars for each offence, and, if he holds a license under the provisions of this chapter, his license may be revoked by the inspector or board which issued it. If the offence was committed in a city or town other than that in which he received his license, the person or board authorized to grant licenses to plumbers in such city or town may forbid him to engage in or work at the business of plumbing for not more than one year in such city or town. If a registered plumber to whom a certificate has been issued violates any provision of this chapter or any ordinance, by-law or regulation made hereunder, either the inspector of buildings or board of health which issued his certificate, or the person or board authorized to grant licenses to plumbers of the city

or town in which the offence was committed, may forbid him to engage in or work at the business of plumbing in such city or town for not more than one year. Whoever engages in or works at the business of plumbing in any city or town in which he has been forbidden so to do under the provisions of this section shall be punished by a fine of not more than one hundred dollars for each offence. Any city or town subject to the provisions of this chapter which refuses to comply with any of its provisions shall forfeit fifty dollars to the use of the commonwealth for each month during which such neglect continues.

Chapter to apply to persons learning business, when. 1894, 455, § 9.

SECTION 9. The provisions of this chapter shall apply to all persons learning the business of plumbing when they are sent out to do the work of a journeyman plumber.

Tenure of office of inspectors. 1894, 455, § 10.

SECTION 10. Any person who held an appointment as inspector of plumbing on the sixth day of July in the year eighteen hundred and ninety-four may retain his position, and, without further examination, be deemed to have been appointed under the provisions of this chapter.

Expenditure of fees. 1894, 455, § 11.

SECTION 11. Inspectors of buildings and boards of health may expend such portion of the fees collected by them under the provisions of this chapter as is necessary to properly perform the duties imposed thereby, and they shall annually, before the first day of June, make a full report in detail to their respective cities or towns of all their proceedings during the year under the provisions of this chapter.

Acceptance of chapter. 1895, 453.

SECTION 12. The provisions of this chapter shall not be operative in any town until accepted by a vote of the inhabitants thereof, nor in such portion of the territory of a city lying outside of the limits of the water supply thereof or unconnected with a common sewer, as the city council votes to exempt from its operation.

CHAPTER 104.

OF THE INSPECTION OF BUILDINGS.

SECTIONS 1–13. — City and Town Regulations.
SECTIONS 14–21. — Inspection by Inspectors of Factories and Public Buildings.
SECTIONS 22–47. — Specific Requirements.
SECTIONS 48–56. — General Provisions.

CITY AND TOWN REGULATIONS.

Inspection, etc., of buildings. 1872, 243, §§ 1, 2, 4. P. S. 104, § 1. 1894, 481, § 11. 123 Mass. 372. 143 Mass. 598.

SECTION 1. Every city, except Boston, and every town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws may, for the prevention of fire and the preservation of life, by ordinances or by-laws not inconsistent with law and applicable throughout the whole or any defined

part of its territory, regulate the inspection, materials, construction, alteration and use of buildings and other structures within its limits, except such as are owned or occupied by the United States or by the commonwealth and except bridges, quays and wharves, and may prescribe penalties not exceeding one hundred dollars for each violation of such ordinances or by-laws.

Building limits in towns.
1870, 375, §§ 1, 3.
P. S. 104, § 2.
1894, 481, § 12.

SECTION 2. In a town which accepts the provisions of this and the following section or has accepted the corresponding provisions of earlier laws, no dwelling house or other structure more than eight feet in length or breadth and seven feet in height, except detached houses or structures situated more than one hundred feet from any other building and wooden structures erected on wooden wharves, shall be built within such limits as the town may from time to time prescribe, unless made of and covered with an incombustible material or unless a license in writing is granted therefor by the selectmen for public good or necessity and recorded in the town records.

Building a nuisance, when.
1870, 375, § 2.
P. S. 104, § 3.
1894, 481, § 13.

SECTION 3. A building or structure which is erected in violation of the provisions of the preceding section shall be deemed a common nuisance without other proof thereof than proof of its unlawful construction and use; and the selectmen may abate and remove it in the same manner as boards of health may remove nuisances under the provisions of sections sixty-seven, sixty-eight and sixty-nine of chapter seventy-five.

Inspection of buildings.
1878, 47, § 1.
P. S. 104, § 4.
1894, 481, § 14.
1899, 139, § 1.

SECTION 4. In a city or town which accepts the provisions of this and the eight following sections or has accepted the corresponding provisions of earlier laws, the superintendent of public buildings or such other officer as the mayor and aldermen of said city or the selectmen of said town may designate shall be inspector of buildings, and, immediately upon being informed by report or otherwise that a building or other structure or anything attached to or connected therewith in said city or town is unsafe or dangerous to life or limb, shall inspect the same; and if it appears to him to be dangerous, he shall forthwith in writing notify the owner, agent or any person having an interest therein to remove it or make it safe and secure. If it appears that such structure would be specially unsafe in case of fire, it shall be deemed dangerous within the meaning hereof, and the inspector may affix in a conspicuous place upon its exterior walls a notice of its dangerous condition, which shall not be removed or defaced without authority from him.

Dangerous structures to be secured or removed.
1878, 47, § 2.
P. S. 104, § 5.
1888, 399, § 3.
1894, 481, §§ 15, 16.
1899, 139, § 2.

SECTION 5. Whoever is so notified shall be allowed until twelve o'clock noon of the day following the service of the notice in which to commence the securing or removal of such structure, and he shall employ sufficient labor speedily to secure or remove it; but if the public safety so requires and if the mayor and aldermen or selectmen so order, the inspector may immediately enter upon the premises with the necessary workmen and assistants and cause such unsafe structure to be shored up, taken down or otherwise secured without delay, and a proper fence or boarding put up for the protection of passers-by.

SECTION 6. If such owner, agent or person interested in such unsafe structure refuses or neglects to comply with the requirements of such notice within the time limited, and such structure is not secured or taken down as therein ordered, a careful survey of the premises shall be made by a board consisting in a city, of the city engineer, the chief engineer of the fire department and one disinterested person to be appointed by said inspector, and in a town, of a surveyor, the chief engineer of the fire department and one disinterested person to be appointed by said inspector. If there is no city engineer in such city or no chief engineer of the fire department in such city or town, the mayor and aldermen or selectmen, as the case may be, shall designate one or more officers or other suitable persons in place of the officers so named as members of said board. A report of such survey shall be made in writing and a copy thereof served on such owner, agent or any interested person.

Survey of premises.
1878, 47, § 3.
P. S. 104, § 6.
1888, 399, § 4.
1894, 481, §§ 16, 50.
1899, 139, § 3.

SECTION 7. If such report declares such structure to be unsafe and dangerous, and if the owner, agent or person interested continues such refusal or neglect, the inspector shall cause it to be taken down or otherwise made safe; and the costs and charges incurred shall constitute a lien upon the land upon which the building is situated, and shall be enforced within the time and in the manner provided for the collection of taxes on land; and such owner or interested person shall, for every day's continuance of such refusal or neglect after being so notified, forfeit to the city or town in which the structure is situated not less than ten nor more than fifty dollars.

Unsafe structure to be taken down.
1878, 47, §§ 4, 5.
P. S. 104, § 7.
1894, 481, § 17.
1899, 139, § 4.

SECTION 8. An owner or interested person who is aggrieved by such order may have the remedy prescribed by sections two, three and four of chapter one hundred and one; but the provisions of this section shall not prevent the city or town from recovering the forfeiture provided in the preceding section from the date of the service of the original notice, unless the order is annulled by the jury.

Appeal from order.
1873, 261.
1878, 47, §§ 6–8.
P. S. 104, §§ 8–10.
1894, 481, §§ 18–20.
1899, 139, § 5.
160 Mass. 484.

SECTION 9. If an owner or interested person lives out of the commonwealth, said notices may be served upon him by a notary public, whose certificate of service under his notarial seal shall be sufficient evidence thereof.

Notice to non-residents.
1878, 47, § 10.
P. S. 104, § 11.
1894, 481, § 21.

SECTION 10. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain the construction, alteration, maintenance or use of a building or structure in violation of the provisions of any ordinance or by-law of a city or town and to order its removal or abatement as a nuisance; and to restrain the further construction, alteration or repair of a building or structure reported to be unsafe or dangerous under a survey authorized by section six, until the determination of the matter, as provided in section eight.

Restraint of illegal construction, etc.
1870, 305.
1872, 243, § 3.
1878, 47, § 9.
P. S. 104, § 12.
1891, 293.
1894, 481, §§ 4, 22.

SECTION 11. If a school house in a city has not been provided with a safe and proper egress or other means of escape from fire, as required by this chapter, within six months after the written notice

School houses in cities to have fire escapes, etc.
1894, 337; 481, § 40.

provided for in section eighteen, the mayor, for the purpose of conforming to the provisions of this chapter relative to egresses or other means of escape from fire in school houses, may, upon petition of one hundred citizens or taxpayers in said city, authorize the expenditure upon such school house of not more than fifteen per cent of the cost thereof, payable from any money in the treasury of said city which is not otherwise appropriated.

Inspection of unsafe structures. 1888, 399, § 1. 1894, 481, § 47.

SECTION 12. Any member of the inspection department of the district police, if called upon by the mayor and aldermen of any city, except Boston, or by the selectmen of a town, shall inspect any building or other structure or anything attached to or connected therewith in such city or town which has been represented to be unsafe or dangerous to life or limb.

Unsafe structures to be removed or made safe. 1888, 399, § 2. 1894, 481, § 48.

SECTION 13. If it appears to such inspector that the building or other structure, or anything attached to or connected therewith, is unsafe or dangerous to life or limb in case of fire or otherwise, he shall cause it to be removed or rendered safe and secure, in the manner provided by sections four to nine, inclusive, and may cause proceedings to be instituted under the provisions of section ten.

INSPECTION BY INSPECTORS OF FACTORIES AND PUBLIC BUILDINGS.

Definition.

SECTION 14. The words "inspector of factories and public buildings", as used in this chapter, shall mean a member of the inspection department of the district police.

Inspectors to examine buildings, etc. 1888, 426, § 2. 1894, 481, § 27.

SECTION 15. The inspectors of factories and public buildings shall from time to time examine all buildings within their respective districts which are subject to the provisions of this chapter. If, in the judgment of any such inspector, such building conforms to the requirements of this chapter, he shall issue to the owner, lessee or occupant thereof, or of any portion thereof used in the manner described in section twenty-five, a certificate to that effect, specifying the number of persons for whom the egresses and means of escape from fire are sufficient. Such certificate shall not continue in force for more than five years after its date, but so long as it continues in force it shall be conclusive evidence of a compliance by the person to whom it is issued with the provisions of this chapter. It shall be void if a greater number of persons than is therein specified are accommodated or employed or assemble, lodge or reside within such building or portion thereof, or if such building is used for any purposes materially different from those for which it was used at the time of the granting thereof, or if its interior arrangement is materially altered, or if any egresses or means of escape from fire in such building at the time of granting such certificate are rendered unavailable or materially changed. Such certificate may be revoked by such inspector at any time upon written notice to the holder thereof or to the occupant of the premises for which it was granted, and shall be so revoked if, in the opinion of such inspector, the conditions have so changed that the existing egresses and means of escape are not proper and sufficient. A copy of said certificate shall

be kept posted in a conspicuous place upon each story of such building by the occupant of the premises covered thereby.

Acknowledgment of application for certificate. 1888, 426, § 3. 1894, 481, § 28.

SECTION 16. Upon application to an inspector for a certificate under the provisions of this chapter, he shall issue to the applicant an acknowledgment of such application, which for ninety days, pending the granting or refusal of such certificate, shall have the same effect as such certificate, and such acknowledgment may be renewed by him with the same effect for a further period, not exceeding ninety days, and may be further renewed by the chief of the district police, until such time as such certificate shall be granted or refused.

Notice of changes. 1888, 426, § 4. 1894, 481, § 29.

SECTION 17. If any change in the use or otherwise shall be made upon premises for which such certificate has been issued which would render the certificate void according to the provisions of section fifteen, the person who makes such change shall forthwith give written notice thereof to an inspector for the district or to the chief of the district police.

Notice of failure to conform. 1888, 426, § 5. 1894, 481, § 30.

SECTION 18. If an inspector finds that any building or portion thereof which is subject to the provisions of this chapter fails to conform thereto, or if any change is made therein which would render a certificate void according to the provisions of section fifteen, he shall give notice in writing to the owner, lessee, occupant or agent in charge thereof, specifying such additional egresses or means of escape from fire as in his opinion may be necessary to conform to the provisions of this chapter and to obtain a certificate as aforesaid.

Appeal from order of inspector. 1890, 438, § 1. 1894, 481, § 5.

SECTION 19. Whoever is aggrieved by the order, requirement or direction of an inspector given under the provisions of this chapter may, within ten days after the service thereof, apply to the superior court for the county in which the building to which such order, requirement or direction relates is situated for an injunction to restrain its enforcement; and after such notice as said court shall order to all parties interested, a hearing may be had before said court at such early and convenient time and place as shall be fixed by said order; or the court may appoint three disinterested persons, skilled in the subject matter of the controversy, to examine the matter and hear the parties; and the decision of said court, or the decision, in writing and under oath, of the majority of said experts, filed in the office of the clerk of courts in said county within ten days after such hearing, may alter, annul or affirm such order, requirement or direction. Such decision or a certified copy thereof shall have the same authority, force and effect as the original order, requirement or direction of the inspector. If such decision annuls or alters such order, requirement or direction, the court shall also enjoin the said inspector from enforcing it, and in every such case the certificate required by section fifteen shall thereupon be issued by said court or by said experts.

Compensation of experts. 1890, 438, § 2. 1894, 481, § 6.

SECTION 20. The court may award reasonable compensation to experts appointed under the provisions of the preceding section

which, if the order, requirement or direction of the inspector is altered or annulled, shall be paid by the county in which the application for an injunction was made; otherwise, by the applicant.

Costs.
1890, 438, § 3.
1894, 481, § 7.

SECTION 21. If the order, requirement or direction of the inspector is affirmed by the court or the experts, costs shall be taxed against the applicant for the injunction as in civil cases and shall be paid into the treasury of the county in which the application for an injunction was made.

SPECIFIC REQUIREMENTS.

Construction of public buildings, etc., regulated.
1888, 316, § 1.
1893, 199, § 1.
1894, 382, § 3; 481, § 25.

SECTION 22. No building which is designed to be used, in whole or in part, as a public building, public or private institution, school house, church, theatre, public hall, place of assemblage or place of public resort, and no building more than two stories in height which is designed to be used above the second story, in whole or in part, as a factory, workshop or mercantile or other establishment and has accommodations for ten or more employees above said story, and no building more than two stories in height designed to be used above the second story, in whole or in part, as a hotel, family hotel, apartment house, boarding house, lodging house or tenement house, and has ten or more rooms above said story, shall be erected until a copy of the plans thereof has been deposited with the inspector of factories and public buildings for the district in which it is to be erected by the person causing its erection, or by the architect thereof. Such plans shall include the method of ventilation provided therefor and a copy of such portion of the specifications therefor as the inspector may require. Such building shall not be so erected without sufficient egresses and other means of escape from fire, properly located and constructed. The certificate of the inspector, indorsed with the approval of the chief of the district police, shall be conclusive evidence of a compliance with the provisions of this chapter unless, after it is granted, a change is made in the plans or specifications of such egresses and means of escape without a new certificate therefor. Such inspector may require that proper fire stops shall be provided in the floors, walls and partitions of such building, and may make such further requirements as may be necessary or proper to prevent the spread of fire therein or its communication from any steam boiler or heating apparatus.

Wooden flues, air ducts, etc., prohibited.
1885, 326.
1888, 316, § 1; 426, § 8.
1893, 199, § 1.
1894, 481, §§ 25, 33.

SECTION 23. No wooden flue or air duct for heating or ventilating purposes shall be placed in any building which is subject to the provisions of sections twenty-four and twenty-five and no pipe for conveying hot air or steam in such building shall be placed or remain within one inch of any woodwork, unless protected to the satisfaction of said inspector by suitable guards or casings of incombustible material.

Penalty.
1888, 316, § 2.
1893, 199, § 2.
1894, 382, § 3; 481, § 26.

SECTION 24. Whoever erects or constructs a building, or an architect or other person who draws plans or specifications or superintends the erection or construction of a building, in violation of the provisions of this chapter, shall be punished by a fine of not less than fifty nor more than one thousand dollars.

SECTION 25. A building which is used, in whole or in part, as a public building, public or private institution, school house, church, theatre, public hall, place of assemblage or place of public resort, and a building in which ten or more persons are employed above the second story in a factory, workshop, mercantile and other establishment, and a hotel, family hotel, apartment house, boarding house, lodging house or tenement house in which ten or more persons lodge or reside above the second story, and a factory, workshop, mercantile or other establishment the owner, lessee or occupant of which is notified in writing by an inspector of factories and public buildings that the provisions of this chapter are deemed by him applicable thereto shall be provided with proper egresses or other means of escape from fire, sufficient for the use of all persons accommodated, assembled, employed, lodged or resident therein; but no owner, lessee or occupant of such building shall be deemed to have violated this provision unless he has been notified in writing by such inspector what additional egresses or means of escape from fire are necessary and has neglected or refused to supply the same. The egresses and means of escape shall be kept unobstructed, in good repair and ready for use. Stairways on the outside of the building shall have suitable railed landings at each story above the first, accessible at each story from doors or windows, and such landings, doors and windows shall be kept clear of ice, snow and other obstructions. Portable seats shall not be allowed in the aisles or passageways of such buildings during any service or entertainment held therein. If the inspector so directs in writing, women or children shall not be employed in a factory, workshop, mercantile or other establishment, in a room above the second story from which there is only one egress, and all doors and windows in any building which is subject to the provisions of this section shall open outwardly, and every room above the second story in any such building, in which ten or more persons are employed, shall be provided with more than one egress by stairways or by such other way or device, approved in writing by the inspector, as the owner may elect, on the inside or outside of the building, placed as near as practicable at each end of the room. The certificate of the inspector shall be conclusive evidence of a compliance with such requirements.

Fire escapes, etc.
1877, 214, §§ 4, 5.
1880, 197.
P. S. 104, §§ 15, 16, 18–20.
1882, 266, §§ 1, 2.
1883, 251, § 2.
1888, 207; 426, § 1.
1894, 481, § 24.
1900, 335, § 1.
126 Mass. 84.
161 Mass. 35.

SECTION 26. Each story above the second story of a building which is subject to the provisions of the preceding section shall be supplied with means of extinguishing fire, consisting of pails of water or other portable apparatus or of a hose attached to a suitable water supply and capable of reaching any part of such story; and such appliances shall be kept at all times ready for use and in good condition.

Fire extinguishers.
1877, 214, § 4.
P. S. 104, § 19.
1888, 426, § 9.
1894, 481, § 34.

SECTION 27. Elevator cabs or cars, whether used for freight or passengers, shall be provided with a suitable mechanical device by which they will be securely held in the event of an accident to the shipper rope or hoisting machinery, or any similar accident, and they shall be guarded and equipped with some attachment or device fastened to the elevator cab or car, elevator well, or floor of the building, which shall prevent any person from being caught between

Elevator cabs to have safety devices.
1882, 208.
1894, 481, § 42.
1901, 439.
159 Mass. 216.

the floor of the cab or car and the floor of the building while attempting to enter or leave the elevator. Elevators used for carrying freight shall be equipped with a suitable device which shall act as a danger signal to warn people of the approach of the elevator. Elevator wells hereafter built shall be so constructed that that part of the inside surface of the well which comes in front of the opening or door of the cab or car shall be flush with the cab or car, and the door opening from said elevator well into the building shall be placed not more than two inches back from the face of said well, so as to allow no space for a foothold between the car and well door of the building. All the above construction work and devices shall be approved by the inspectors of factories and public buildings, except that in the city of Boston they shall be approved by the building commissioner, and in other cities by the inspector of buildings; but, upon the approval of said commissioner, or inspector of buildings, or inspector of factories and public buildings, any elevator may be used without any or all of such appliances or devices if the nature of the business is such that the necessity for the same will not warrant the expense.

Notice of unsafe elevators. 1883, 173. 1894, 481, § 43.

SECTION 28. If an elevator which is used for freight or passengers is, in the judgment of the inspector of factories and public buildings, unsafe or dangerous to use or has not been constructed in the manner required by law, said inspector shall immediately post conspicuously upon the entrance to or door of the cab or car of such elevator a notice of its dangerous condition and shall prohibit its use until made safe to his satisfaction. No person shall, without authority from said inspector, remove such notice or operate such elevator while the notice is posted as aforesaid. The provisions of this section shall not apply to the city of Boston.

Watchmen in hotels and boarding houses. 1883, 251, § 1. 1884, 223, § 2.

SECTION 29. The keeper of a hotel, boarding or lodging house or family hotel containing one hundred or more rooms, and being four or more stories high, shall have therein at least two competent watchmen, each properly assigned, and each on duty between the hours of nine o'clock at night and six o'clock in the morning. The keeper of every hotel, boarding or lodging house or family hotel containing fifty or more but less than one hundred rooms, and being three stories high, shall have between said hours at least one competent watchman on duty therein. In all such hotels, lodging houses or family hotels, the halls and stairways shall be properly lighted at night, and a red light shall be kept during the night at the top and bottom of each flight of stairs; and one or more proper alarms or gongs, capable of being heard throughout the house, shall always remain easy of access and ready for use in each of said buildings to give to the inmates warning of fire. The keeper of every such hotel, boarding or lodging house or family hotel shall keep a notice descriptive of such means of escape conspicuously posted in every sleeping room.

Limitation of preceding section. 1884, 223, § 1.

SECTION 30. The keeper of such hotel, boarding or lodging house or family hotel, who adopts a system of electric watch clocks which register at the office the movements of the watchman throughout the house, or who adopts a system of thermostats or fire alarm bells in

the rooms, approved by the inspector of factories and public buildings shall not be required to maintain more than one watchman in addition to the regular night clerk and porters.

Further provisions if necessary. 1883, 251, § 3. 1884, 223, § 2.

SECTION 31. The mayor and aldermen of cities and the selectmen of towns, may prescribe additional night watch to be kept and further provision for the prevention of fires and for the better protection of life in case of fire to be made by the keepers of hotels, boarding or lodging houses or family hotels within their cities and towns. A license shall not be granted to any keeper of a hotel governed by the provisions of this and the two preceding sections, until the requirements thereof, so far as applicable, have been complied with.

Penalties. 1883, 251, § 4.

SECTION 32. Whoever neglects or refuses to provide watchmen as required by the three preceding sections shall be punished by a fine of not more than one thousand dollars for each offence, and whoever violates any of the other provisions of said sections shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Fire escapes in hotels, etc. 1890, 307, § 1. 1894, 341; 481, § 44.

SECTION 33. The owner, lessee, proprietor or manager of a hotel, which is not otherwise suitably provided with fire escapes, or of a lodging house which contains ten or more rooms above the second story, shall place or cause to be placed a knotted rope or better appliance for use as a fire escape in every room of said hotel or lodging house used as a lodging room, except rooms on the ground floor. One end of such rope shall be securely fastened to a suitable iron hook or eye securely screwed into one of the joists or timbers next adjoining the frame of a window of said room, at least five feet from the floor, and shall at all times be kept coiled and exposed to the plain view of the occupant of said room. The coil shall be fastened in such manner as to be easily and quickly loosened and uncoiled. Such rope shall contain knots not more than eighteen inches apart, a loop at the end at least three inches in length, shall not be less than one-half inch in diameter and shall be of sufficient length to reach from such window to the ground. Such rope, iron hook or eye and fastenings shall be of sufficient strength to sustain a weight of four hundred pounds, and plain directions for the use of such rope or other appliance shall be printed and posted within six inches of the hook or eye to which the rope is fastened.

Annual inspection of hotels, etc. 1890, 307, § 2. 1894, 481, § 45.

SECTION 34. The inspector of buildings of each city and town, if any, otherwise, the chief engineer of the fire department, shall annually, in May, inspect every room of every hotel and lodging house of ten or more rooms above the second story in his city or town and ascertain if the provisions of the preceding section are complied with, and report the condition of the rope or other appliance to the chief of the district police.

Penalty. 1890, 307, § 3. 1894, 481, § 58.

SECTION 35. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Construction of theatres regulated. Exits. 1877, 214, § 5. P. S. 104, § 20. 1894, 382, § 1.

SECTION 36. The audience hall in a building which is erected or designed to be used in whole or in part as a theatre or in which any change or alteration shall be made for the purpose of using it as a theatre shall not be placed above the second floor of said building. The audience hall and each gallery of every such building shall, respectively, have at least two independent exits, as far apart as may be, and if the audience hall is on the second floor, the stairways from said floor to the ground floor shall be enclosed with fireproof walls from the basement floor up, and shall have no connection with the basement or first floor of the building. Every such exit shall have a width of at least twenty inches for every one hundred persons which such hall, or gallery from which it leads, is capable of holding; but two or more exits of the same aggregate width may be substituted for either of the two required exits. None of the required exits shall be less than five feet wide.

Fire resisting curtain. 1888, 207; 426, § 1. 1894, 481, § 24. 1900, 335, § 1.

SECTION 37. The proscenium or curtain opening of all theatres shall have a fire resisting curtain of an incombustible material, properly constructed and operated by proper mechanism. The certificate of the inspector of factories and public buildings shall be conclusive evidence of a compliance with such requirements.

Communication with engineer's room. 1886, 173, § 1. 1890, 179. 1894, 481, §§ 51, 59.

SECTION 38. In every manufacturing establishment in which the machinery is propelled by steam, communication shall be provided between each room in which such machinery is placed and the room in which the engineer is stationed by means of speaking tubes, electric bells or appliances to control the motive power, or such other means as shall be satisfactory to the inspectors of factories and public buildings, if in the opinion of the inspectors such communication is necessary. Whoever, being the occupant or controlling the use of any such manufacturing establishment, violates the provisions of this section shall forfeit to the commonwealth not less than twenty-five nor more than one hundred dollars.

Commencement of prosecutions. 1886, 173, § 2. 1894, 481, § 52.

SECTION 39. No prosecution for a violation of the provisions of the preceding section shall be commenced until four weeks after notice in writing by an inspector has been sent by mail to such person, firm or corporation of any changes necessary to be made to comply with the provisions of said section, nor if such changes shall have been made in accordance with such notice.

Doors not to be locked during hours of labor. 1884, 52, §§ 1, 2. 1894, 481, §§ 53, 54.

SECTION 40. No outside or inside doors of any building in which operatives are employed shall be so locked, bolted or otherwise fastened during the hours of labor as to prevent free egress. The owner, lessee or occupant of any such building shall, five days after receiving notice in writing from an inspector of factories and public buildings, comply with the provisions of this section.

Belting, etc., in factories to be guarded. 1877, 214, § 1. P. S. 104, § 13. 1894, 481, § 23. 149 Mass. 294.

SECTION 41. The belting, shafting, gearing and drums of all factories, if so placed as, in the opinion of the inspectors of factories and public buildings, to be dangerous to employees therein while engaged in their ordinary duties, shall be as far as practicable securely guarded. No machinery except steam engines in a factory shall be cleaned while running if objection in writing is made by

one of said inspectors. All factories shall be well ventilated and kept clean.

Traversing machinery in cotton factories. 1896, 343.

SECTION 42. The owner of a cotton factory which shall have been erected subsequent to the twenty-eighth day of May in the year eighteen hundred and ninety-six who permits the traversing carriage of a self-acting mule in such factory to travel within twelve inches of any pillar, column, pier or fixed structure shall be punished by a fine of not less than twenty nor more than fifty dollars for each offence.

Hatchways, etc., to be protected. 1877, 214, § 2. P. S. 104, § 14. 1882, 208. 1894, 481, § 41. 143 Mass. 470. 145 Mass. 123.

SECTION 43. The openings of all hoistways, hatchways, elevators and well holes upon every floor of a factory or mercantile or public building shall be protected by sufficient trap doors or self-closing hatches and safety catches, or such other safeguards as the inspectors of factories and public buildings direct; and due diligence shall be used to keep such trap doors closed at all times, except when in actual use by the occupant of the building who has the use and control of the same.

Temporary flooring during construction. 1901, 166, § 1.

SECTION 44. If, in the erection of an iron or steel framed building the spaces between the girders or floor beams of any floor are not filled or covered by the permanent construction of said floors before another story is added to the building, a close plank flooring shall be placed and maintained over such spaces, from the time when the beams or girders are placed in position until said permanent construction is applied; but openings, protected by a strong hand railing not less than four feet high, may be left through said floors for the passage of workmen or material.

Same subject. 1901, 166, § 2.

SECTION 45. In the construction of any iron or steel framed building having a clear story of twenty-five feet elevation or more, a staging with a close plank flooring shall be placed under the whole extent of the beams, girders or trusses of such story upon which iron or steel workers are working, and not more than ten feet below the under side of such beams, girders and trusses.

Enforcement of laws, and penalty. 1901, 166, §§ 3, 4.

SECTION 46. Inspectors of factories and public buildings shall enforce the provisions of the two preceding sections, and whoever violates any provision thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars for each offence.

Use of explosives in factories. 1881, 137, § 1. P. S. 104, § 21.

SECTION 47. Explosive or inflammable compounds shall not be used in any factory in such place or manner as to obstruct or render hazardous the egress of operatives in case of fire. 1894, 481, § 46.

GENERAL PROVISIONS.

Co-tenant may provide fire escape. 1888, 426, § 6. 1894, 481, § 31.

SECTION 48. If a building which is subject to the provisions of this chapter is owned, leased or occupied, jointly or in severalty, any owner, lessee or occupant may affix to any part of the outside wall of such building any means of egress or of escape from fire specified and described by an inspector as above provided, notwithstanding the objection of any other such owner, lessee or occupant; and such means of egress or of escape may project over the highway.

Certificate to precede license.
1888, 426, § 7.
1894, 481, § 32.

SECTION 49. A license which is required by law, ordinance or by-law to authorize any premises to be used for any purpose specified in section twenty-five shall not be granted until a certificate for such building or portion thereof shall first have been obtained from an inspector as above provided, and, when issued, shall not continue in force after the expiration of such certificate.

Liability of occupants of factories to cause law to be observed.
1877, 214, § 8.
1881, 137, § 2; 195.
P. S. 104, § 22.
1882, 266, § 3.
1888, 426, § 12.
1894, 382, § 2; 481, § 37.
143 Mass. 470.
149 Mass. 294.
161 Mass. 35.

SECTION 50. The owner, lessee or occupant of a theatre, factory, workshop or manufacturing establishment, or whoever owns any building or room mentioned in and subject to the provisions of sections fifteen, seventeen, twenty-two, twenty-three, twenty-five, twenty-six, thirty-six and thirty-seven, or controls the use thereof, shall cause the provisions thereof to be observed, and such person or corporation shall be liable to any person injured for all damages caused by a violation of the provisions of this chapter. No criminal prosecution shall be commenced for such violation until four weeks after notice in writing to such person or corporation has been given by an inspector of factories and public buildings of any changes necessary to be made to conform to the provisions of said sections, nor if such changes shall have been made in accordance with such notice. Notice to one member of a firm or to the clerk or treasurer of a corporation or to the person in charge of the premises shall be sufficient notice hereunder to all members of such firm or to such corporation owning, leasing or controlling the premises. Such notice may be served personally or sent by mail.

Injunction to restrain use.
1888, 316, § 2; 426, § 12.
1893, 199, § 2.
1894, 382, § 2; 481, §§ 26, 38.

SECTION 51. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the petition of an inspector, temporarily or permanently to restrain the erection, construction, use or occupation of a building in violation of the provisions of this chapter.

Enforcement.
1899, 326.

SECTION 52. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain the illegal placing, maintenance or use of any building, structure or other thing. It may, upon the petition of a city or town, by its attorney, for such relief, require the removal of any such building, structure or other thing by the owner, and may authorize the city or town, in default of such removal by the owner, to remove it at his expense. The provisions of this section shall apply to such buildings, structures or other thing so placed which were maintained or used prior to, as well as after, the second day of May in the year eighteen hundred and ninety-nine. Upon such petition, the defendant shall be presumed to have acted without a license or authority until he proves the contrary.

Certain sections not to apply to Boston.
1877, 214, § 9.
P. S. 104, § 23.
1882, 266, § 4.

SECTION 53. Sections fifteen to eighteen, inclusive, twenty-two to twenty-six, inclusive, thirty, thirty-one, thirty-six, thirty-seven, forty-eight to fifty-one, inclusive, and fifty-four shall not apply to the city of Boston.

1887, 219, 276. 1892, 419, § 138. 1894, 382, § 1; 481, § 39.

Certain sections may apply to certain buildings in cities.

SECTION 54. Cities may by ordinance provide that the provisions of sections fifteen to eighteen, inclusive, twenty-two to

twenty-six, inclusive, thirty-six, thirty-seven, forty-eight and forty-nine shall apply to any building of three or more stories in height within their respective limits. 1882, 266, § 1. 1888, 426, § 11. 1894, 481, § 36.

SECTION 55. Whoever, being the owner, lessee or occupant of any building or room described in section twenty-two violates the provisions of sections fifteen to eighteen, inclusive, twenty-two to twenty-six, inclusive, thirty-six, thirty-seven, forty-eight and forty-nine, shall be punished by a fine of not less than fifty nor more than one thousand dollars. Penalty. 1882, 266, § 3. 1885, 326. 1888, 426, § 12. 1894, 382, § 2; 481, § 60. 161 Mass. 35.

SECTION 56. Whoever violates any provision of this chapter for which no other penalty is specifically prescribed shall be punished by a fine of not more than one hundred dollars. General penalty. 1894, 481, § 62.

CHAPTER 105.

OF THE INSPECTION OF STEAM BOILERS.

SECTION 1. The chief of the district police shall detail ten members of the inspection department of the district police, who, under his direction, shall inspect stationary steam boilers and their appurtenances, shall act as examiners of engineers and firemen and shall report to said chief. Inspectors of boilers. 1893, 387. 1894, 481, § 3. 1895, 418, § 8. 1896, 546, § 4. 1898, 261.

SECTION 2. Whoever owns or uses or causes to be used a steam boiler, except boilers upon locomotives, in private residences, under the jurisdiction of the United States or under the periodically guaranteed inspection of companies which have complied with the laws of this commonwealth, boilers used exclusively for agricultural, horticultural and creamery purposes or boilers of less than three horse power, shall annually report to the chief of the district police the location of such steam boiler. Location of certain boilers to be reported. 1895, 418, § 1.

SECTION 3. Each boiler designated in the preceding section and not therein excepted shall be inspected by the inspector of boilers for the district in which said boiler is located, and if he so orders the owner or user shall have the boiler blown off dry and the manhole and the hand hole covers thereon removed, ready for inspection, upon the day designated by the inspector, who shall give the owner or user of said boiler fourteen days' notice in writing of the day upon which he will make such internal inspection, which shall not be required oftener than twice a year. Inspection of boilers. 1895, 418, § 2. 1898, 167.

SECTION 4. If, upon examination, said inspector finds the boiler to be worthy and in safe working order, with the fittings necessary to safety, and properly set up, he shall grant to the owner or user thereof a certificate of inspection, and thereupon said owner or user may use the boiler mentioned in the certificate. If the inspector finds that the boiler is not in safe condition, or is not provided with fittings necessary to safety or with fittings not properly arranged, he shall withhold his certificate until the boiler and fittings are put Certificate of inspection. 1895, 418, §§ 3, 5.

into a condition satisfactory to him; and the owner or user shall not operate such steam boiler or cause it to be operated until such certificate has been granted. The owner or user of such boiler shall pay to the inspector at each inspection two dollars for each boiler inspected. The supreme judicial court or the superior court, upon the application of the inspector of boilers approved by the chief of the district police, shall have jurisdiction in equity to restrain the owner or user of such boiler from operating it without such certificate.

Inspector may fix maximum pressure. 1895, 418, § 4.

SECTION 5. If the inspector finds that the owner or user of a steam boiler is putting too much pressure upon it, he may fix the maximum pressure to be carried by it and shall prescribe a device to prevent it from carrying more than the maximum pressure designated, which shall be approved by the chief of the district police and which the owner or user shall place or cause to be placed upon said boiler. No person shall in any manner tamper with such device, or load the safety valve to a greater pressure than that allowed by the inspector.

Penalty. 1895, 418, § 7.

SECTION 6. Whoever violates the provisions of the preceding sections of this chapter shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Prohibition of use of steam engines. 1852, 191, § 1. 1859, 259. G. S. 88, § 41. 1880, 116. P. S. 102, § 49. 1892, 419, § 138. 1895, 449, § 10.

SECTION 7. The mayor and aldermen of any city except Boston or the selectmen of a town, or any person by them authorized, may, after notice to the parties interested, examine any steam engine or steam boiler therein, whether fixed or portable; and for that purpose may enter any house, shop or building; and if upon such examination it appears probable that the use of such engine or boiler is unsafe, they may issue a temporary order to suspend such use; and if, after giving the parties interested, so far as known, an opportunity to be heard, they adjudge such engine or boiler to be unsafe or defective or unfit to be used, they may pass a permanent order prohibiting the use thereof until it is rendered safe. If, after notice to the owner or person having charge thereof, such engine or boiler is used contrary to either of such orders, it shall be deemed a common nuisance, without any other proof thereof than its use.

Removal of steam engines as nuisances. 1852, 191, § 2. 1859, 259. G. S. 88, § 42. P. S. 102, § 50. 1895, 449, §§ 9, 10.

SECTION 8. The mayor and aldermen and selectmen may abate and remove a steam engine or steam boiler which has been erected or used contrary to the provisions of the preceding section in the same manner as boards of health may remove nuisances under the provisions of sections sixty-seven, sixty-eight and sixty-nine of chapter seventy-five.

Safety plugs for steam boilers. 1850, 277, § 1. G. S. 88, § 43. P. S. 102, § 51.

SECTION 9. No person shall manufacture, set up or use a steam boiler or cause it to be used unless it is provided with a fusible safety plug, made of lead or some other equally fusible material and of a diameter of not less than one-half an inch, placed in the roof of the fire box, if a fire box is used, and in all cases, in a part of the boiler fully exposed to the action of the fire, and as near the top of the water line as any part of the fire surface of the boiler.

SECTION 10. Whoever, without just and proper cause, removes the safety plug from a boiler or substitutes therefor any material more capable of resisting the action of the fire than the plug so removed shall be punished by a fine of not more than one thousand dollars.

Penalty for removing safety plugs. 1850, 277, § 2. G. S. 88, § 44. P. S. 102, § 52.

SECTION 11. Whoever manufactures, sets up or knowingly uses or causes to be used for six consecutive days a steam boiler, unprovided with a safety fusible plug as described in section nine, shall be punished by a fine of not more than one thousand dollars.

— for making boilers without safety plugs. 1850, 277, § 3. 1852, 247. G. S. 88, § 45. P. S. 102, § 53.

SECTION 12. The provisions of the five preceding sections shall not apply to a boiler for which a certificate of inspection issued under the provisions of sections four and five is in force.

Application of preceding sections.

CHAPTER 106.

OF THE EMPLOYMENT OF LABOR.

SECTION 1. — State Board of Conciliation and Arbitration.
SECTIONS 2–6. — Duties and Powers.
SECTION 7. — Local Boards of Conciliation and Arbitration.
SECTIONS 8–18. — General Provisions.
SECTIONS 19–27. — Hours of Labor.
SECTIONS 28–44. — Employment of Women and Children.
SECTIONS 45, 46. — Public Exhibition of Children.
SECTIONS 47–55. — Sanitary Provisions.
SECTIONS 56–61. — Manufacture of Clothing.
SECTIONS 62–70. — Payment of Wages.
SECTIONS 71–79. — Liability of Employers to Employees.

STATE BOARD OF CONCILIATION AND ARBITRATION.

SECTION 1. There shall be a state board of conciliation and arbitration consisting of three persons, one of whom shall annually, in June, be appointed by the governor, with the advice and consent of the council, for a term of three years from the first day of July following. One member of said board shall be an employer or shall be selected from an association representing employers of labor, one shall be selected from a labor organization and shall not be an employer of labor, and the third shall be appointed upon the recommendation of the other two, or if the two appointed members do not, at least thirty days prior to the expiration of a term, or within thirty days after the happening of a vacancy, agree upon the third member, he shall then be appointed by the governor. Each member shall, before entering upon the duties of his office, be sworn to the faithful performance thereof, and shall receive a salary at the rate of two thousand dollars a year and his necessary travelling and other expenses, which shall be paid by the commonwealth. The board shall choose from its members a chairman, and may appoint and remove a secretary of the board and may allow him a salary of not more than twelve hundred dollars a year. The board shall from time to time establish such rules of procedure

State board of conciliation and arbitration. 1886, 263, §§ 1, 2, 5, 8. 1887, 269, §§ 1, 5. 1888, 261.

as shall be approved by the governor and council, and shall annually, on or before the first day of February, make a report to the general court.

DUTIES AND POWERS.

Conciliation. 1887, 269, §§ 4, 5.

SECTION 2. If it appears to the mayor of a city or to the selectmen of a town that a strike or lock-out described in this section is seriously threatened or actually occurs, he or they shall at once notify the state board. If, when the state board has knowledge that a strike or lock-out, which involves an employer and his present or former employees, is seriously threatened or has actually occurred, such employer, at that time, is employing, or upon the occurrence of the strike or lock-out, was employing, not less than twenty-five persons in the same general line of business in any city or town in the commonwealth, the state board shall, as soon as may be, communicate with such employer and employees and endeavor by mediation to obtain an amicable settlement or endeavor to persuade them, if a strike or lock-out has not actually occurred or is not then continuing, to submit the controversy to a local board of conciliation and arbitration or to the state board. Said state board may, if it considers it advisable, investigate the cause of such controversy and ascertain which party thereto is mainly responsible or blameworthy for the existence or continuance of the same, and may make and publish a report finding such cause and assigning such responsibility or blame. The board shall have the same powers for the foregoing purposes as are given to it by the provisions of the following section.

Arbitration. 1886, 263, §§ 3, 5, 6. 1887, 269, § 2.

SECTION 3. If a controversy which does not involve questions which may be the subject of an action at law or suit in equity exists between an employer, whether an individual, a partnership or corporation employing not less than twenty-five persons in the same general line of business, and his employees, the board shall, upon application as hereinafter provided, and as soon as practicable, visit the place where the controversy exists and make careful inquiry into its cause, hear all persons interested therein who come before it, advise the respective parties what ought to be done or submitted to by either or both to adjust said controversy, and make a written decision thereof which shall at once be made public, shall be open to public inspection and shall be recorded by the secretary of said board. A short statement thereof shall, in the discretion of the board, be published in the annual report, and the board shall cause a copy thereof to be filed with the clerk of the city or town in which said business is carried on. Said decision shall, for six months, be binding upon the parties who join in said application, or until the expiration of sixty days after either party has given notice in writing to the other party of his intention not to be bound thereby. Such notice may be given to said employees by posting it in three conspicuous places in the shop or factory where they work.

Applications to state board. 1886, 263, § 4. 1887, 269, § 3. 1890, 385.

SECTION 4. Said application shall be signed by the employer or by a majority of his employees in the department of the business in which the controversy exists, or by their duly authorized agent, or by both parties, and if signed by an agent claiming to represent

a majority of the employees, the board shall satisfy itself that he is duly authorized thereto in writing; but the names of the employees giving the authority shall be kept secret. The application shall contain a concise statement of the grievances complained of and a promise to continue in business or at work without any lock-out or strike until the decision of the board, if made within three weeks after the date of filing the application. The secretary of the board shall forthwith, after such filing, cause public notice to be given of the time and place for a hearing on the application, unless both parties join in the application and present therewith a written request that no public notice be given. If such request is made, notice of the hearings shall be given to the parties in such manner as the board may order, and the board may give public notice thereof notwithstanding such request. If the petitioner or petitioners fail to perform the promise made in the application, the board shall proceed no further thereon without the written consent of the adverse party.

Expert assistants. 1890, 385. 1892, 382.

SECTION 5. In all controversies between an employer and his employees in which application is made under the provisions of the preceding section, each party may, in writing, nominate a fit person to act in the case as expert assistant to the board and the board shall appoint such experts if so nominated. Said experts shall be skilled in and conversant with the business or trade concerning which the controversy exists, they shall be sworn by a member of the board to the faithful performance of their official duties and a record of their oath shall be made in the case. Said experts shall, if required, attend the sessions of the board, and shall, under direction of the board, obtain and report information concerning the wages paid and the methods and grades of work prevailing in establishments within the commonwealth similar to that in which the controversy exists, and they may submit to the board at any time before a final decision any facts, advice, arguments or suggestions which they may consider applicable to the case. No decision of said board shall be announced in a case in which said experts have acted without notice to them of a time and place for a final conference on the matters included in the proposed decision. Such experts shall receive from the commonwealth seven dollars each for every day of actual service and their necessary travelling expenses. The board may appoint such other additional experts as it considers necessary, who shall be qualified in like manner and, under the direction of the board, shall perform like duties and be paid the same fees as the experts who are nominated by the parties.

Witness fees. 1886, 263, § 9. 1887, 269, §§ 3, 5. 1890, 385.

SECTION 6. The board may summon as witnesses any operative and any person who keeps the record of wages earned in the department of business in which the controversy exists, and may examine them upon oath and require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the board. Witnesses summoned by the board shall be allowed fifty cents for each attendance, and also twenty-five cents for each hour of attendance in excess of two hours, and shall be allowed five cents a mile for travel each way from their respective places of employment or business to the place where the board is in session. Each witness shall certify in writing

the amount of his travel and attendance, and the amount due him shall be paid forthwith by the board, for which purpose the board may have money advanced to it from the treasury of the commonwealth as provided in section thirty-five of chapter six.

LOCAL BOARDS OF CONCILIATION AND ARBITRATION.

Local boards. 1886, 263, § 7. 1887, 269, § 4.

SECTION 7. The parties to any controversy described in section three may submit such controversy in writing to a local board of conciliation and arbitration which may either be mutually agreed upon or may be composed of three arbitrators, one of whom may be designated by the employer, one by the employees or their duly authorized agent and the third, who shall be chairman, by the other two. Such board shall, relative to the matters referred to it, have and exercise all the powers of the state board, and its decision shall have such binding effect as may be agreed upon by the parties to the controversy in the written submission. Such board shall have exclusive jurisdiction of the controversy submitted to it, but it may ask the advice and assistance of the state board. The decision of such board shall be rendered within ten days after the close of any hearing held by it; and shall forthwith be filed with the clerk of the city or town in which the controversy arose, and a copy thereof shall be forwarded by said clerk to the state board. Each of such arbitrators shall be entitled to receive from the treasury of the city or town in which the controversy submitted to them arose, with the approval in writing of the mayor of such city or of the selectmen of such town, the sum of three dollars for each day of actual service, not exceeding ten days for any one arbitration.

GENERAL PROVISIONS.

Definitions. 1887, 103, § 5. 1894, 508, § 57.

SECTION 8. The following words and phrases as used in all laws relative to the employment of labor shall, unless a different meaning is plainly required by the context, have the following meanings: —

"Bleaching works."

"Bleaching works" shall mean any premises in which the process of bleaching yarn or cloth of any material is carried on.

"Dyeing works."

"Dyeing works" shall mean any premises in which the process of dyeing yarn or cloth of any material is carried on.

"Factory." 1888, 348, § 10.

"Factory" shall mean any premises where steam, water or other mechanical power is used in aid of any manufacturing process there carried on.

"Glass works."

"Glass works" shall mean any premises in which the manufacture of glass is carried on.

"Iron works." 1887, 215, § 4.

"Iron works" shall mean a mill, forge or other premises in or upon which any process is carried on for converting iron into malleable iron, steel or tin plate, or for otherwise making or converting steel.

"Letter press establishments."

"Letter press establishments" shall mean any premises in which the process of letter press printing is carried on.

"Mercantile establishments." 1901, 113.

"Mercantile establishments" shall mean any premises used for the purposes of trade in the purchase or sale of any goods or merchandise, and any premises used for the purposes of a restaurant or for publicly providing and serving meals.

"Paper mills" shall mean any premises in which the manufacture of paper is carried on. "Paper mills."

"Person" shall mean an individual, corporation, partnership, company or association. "Person."

"Print works" shall mean any premises in which is carried on the process of printing figures, patterns or designs upon cotton, linen, woollen, worsted or silken yarn or cloth, or upon any woven or felted fabric which is not paper. "Print works."

"Public building" shall mean any building or premises used as a place of public entertainment, instruction, resort or assemblage. "Public building." 1888, 149, § 5.

"School house" shall mean any building or premises in which public or private instruction is afforded to not less than ten pupils at one time. "School house."

"Woman" shall mean a woman eighteen years of age or over. "Woman."

"Workshop" shall mean any premises, room or place, which is not a factory as above defined, wherein manual labor is exercised by way of trade or for purposes of gain in or incidental to a process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, room or place the employer of the persons working therein has the right of access or control; but the exercise of such manual labor in a private house or private room by the family dwelling therein or by any of them or, if a majority of the persons therein employed are members of such family, shall not of itself constitute such house or room a workshop within this definition. "Workshop."

"Young person" shall mean a person of the age of fourteen years and under the age of eighteen years. "Young person."

SECTION 9. Manufacturers and others who employ workmen may, for the purpose of giving notice to them, ring bells and use whistles and gongs of such size and weight, and in such manner and at such hours, as the board of aldermen of cities and the selectmen of towns may designate in writing. Use of bells and whistles. 1883, 84. 133 Mass. 289. 136 Mass. 239.

SECTION 10. A person who, being engaged in manufacturing, requires from persons in his employ, under penalty of forfeiture of a part of the wages earned by them, a notice of intention to leave such employ shall be liable to a like forfeiture if, without similar notice, he discharges a person in his employ. Discharge of employee without notice; penalty. 1875, 211, § 1. P. S. 74, § 1. 1894, 508, § 1. 1895, 129.

SECTION 11. No person shall, by intimidation or force, prevent or seek to prevent a person from entering into or continuing in the employment of any person or corporation. Intimidation of employees prohibited. 1875, 211, § 2. P. S. 74, § 2.

1894, 508, § 2. 128 Mass. 70. 147 Mass. 212. 167 Mass. 98.

SECTION 12. No person shall, himself or by his agent, coerce or compel a person into a written or verbal agreement not to join or become a member of a labor organization as a condition of his securing employment or continuing in the employment of such person. Membership in labor organization not to be forbidden. 1892, 330. 1894, 437; 508, § 3.

SECTION 13. Every employee in public work shall lodge, board and trade where and with whom he elects and no person or his agents or employees, under contract with the commonwealth, a municipal corporation or a county, or with a board, commission or Right of employee in public work to select lodging, etc. 1900, 469.

officer acting therefor, for the doing of public work, shall directly or indirectly require, as a condition of employment therein, that the employee shall lodge, board or trade at a particular place or with a particular person. The provisions of this section shall be made a part of the contract for such employment and whoever violates the provisions thereof shall be punished by a fine of not more than one hundred dollars for each offence.

Preference to citizen mechanics and laborers. 1896, 494.

SECTION 14. In the employment of mechanics and laborers in the construction of public works by the Commonwealth, or by a county, city or town, or by persons contracting with them, preference shall be given to citizens of the United States; and every contract for such works shall contain a provision to that effect. Any contractor who knowingly and wilfully violates the provisions of this section shall be punished by a fine of not more than one hundred dollars for each offence.

Railroads, etc., not to require certain bonds. 1900, 282.

SECTION 15. A corporation which is engaged in carrying passengers or in transporting freight for hire shall not require or receive from a person who is employed or about to be employed by it a bond or other security, either with or without surety, to indemnify such corporation against loss or damage to other persons or to property resulting from the act or neglect of such person, except a bond to account for money or other property of such corporation. A corporation or a person in its behalf who violates the provisions of this section shall be punished by a fine of not more than fifty dollars for the first offence and of not more than one hundred dollars for each subsequent offence.

Contract for exemption of employer from liability forbidden. 1877, 101. P. S. 74, § 3. 1894, 508, § 6. 175 Mass. 150.

SECTION 16. No person shall, by a special contract with his employees, exempt himself from liability which he may be under to them for injuries suffered by them in their employment and resulting from the negligence of the employer or of a person in his employ.

Report of accidents to employees. 1886, 260, §§ 1–3. 1890, 83. 1893, 111. 1894, 481, §§ 8–10, 61.

SECTION 17. All manufacturers, manufacturing corporations and proprietors of mercantile establishments shall forthwith send to the chief of the district police a written notice of any accident to an employee while at work in any factory, manufacturing or mercantile establishment operated by them, if the accident results in the death of said employee or in such bodily injury as to prevent him from returning to his work within four days thereafter. The chief of the district police shall forthwith transmit to the sender of such notice a written or printed acknowledgment of the receipt thereof, and he shall keep a record of all accidents so reported to him, of the name of the person injured, of the city or town in which the accident occurred and the cause thereof, and shall include an abstract of said record in his annual report. Whoever fails to send notice of an accident as required by this section shall be punished by a fine of not more than twenty dollars.

Exemption from insurance laws. 1899, 468.

SECTION 18. Trade unions and other associations of wage workers, whose principal objects are to deal with the relation between employers and employees relative to wages, hours of labor

and other conditions of employment shall not be subject to the provisions of chapters one hundred and eighteen, one hundred and nineteen and one hundred and twenty or of such other provisions of law as relate to insurance companies or associations.

HOURS OF LABOR.

Nine hours a day's work, when. 1890, 375. 1891, 350. 1894, 508, § 7. [1 Op. A. G. 10.]

SECTION 19. Nine hours shall constitute a day's work for all laborers, workmen and mechanics who are employed by or on behalf of the commonwealth or of any county, city or town therein, except as provided in the following section.

Eight hours a day's work, when. 1899, 344. 1900, 357.

SECTION 20. In a city or town which by a vote taken by ballot at an annual election accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, eight hours shall constitute a day's work for all laborers, workmen and mechanics who are employed by such city or town. If a petition for such vote, signed by one hundred or more registered voters of a city, or twenty-five or more registered voters of a town, is filed with the city or town clerk, respectively, thirty days or more before an annual election, such vote shall be taken at such election.

Contracts to specify length of day's work. 1893, 406. 1894, 508, § 8.

SECTION 21. Contracts by or on behalf of the commonwealth, requiring the employment of manual labor, shall provide that persons employed in manual labor thereunder shall not be required to work more than nine hours in each day and that said nine hours shall constitute a day's work.

Day's work of street railway employees. 1893, 386. 1894, 508, § 9.

SECTION 22. A day's work for all conductors, drivers and motormen who are employed by or on behalf of a street railway company shall not exceed ten hours, and shall be so arranged by the employer that it may be performed within twelve consecutive hours. No officer or agent of any such company shall require from said employees more than ten hours' work for a day's labor; but on legal holidays, on days when the company is required to provide for extraordinary travel, and in case of accident or unavoidable delay, extra labor may be performed for extra compensation. The provisions of this section shall not affect written contracts existing on the twenty-second day of July in the year eighteen hundred and ninety-four.

Employment of children and women in mercantile establishments. 1884, 275, § 1; 508, § 10. 1900, 378. 1901, 113.

SECTION 23. No child under eighteen years of age and no woman shall be employed in laboring in a mercantile establishment more than fifty-eight hours in a week; but the provisions of this section shall not apply during December to persons who are employed in shops for the sale of goods at retail. Every employer shall post in a conspicuous place in every room in which such persons are employed a printed notice stating the number of hours' work which are required of them on each day of the week, the hours of commencing and stopping such work, and the hour when the time or times allowed for dinner or other meals begin and end. The printed form of such notice shall be furnished by the chief of the district police and shall be approved by the attorney general.

The employment of any such person for a longer time in any day than that so stated shall be deemed a violation of the provisions of this section. An employer, superintendent, overseer or other agent of a mercantile establishment who violates any of the provisions of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

Employment of children and women in manufacturing or mechanical establishments.
1842, 60, § 3.
G. S. 42, § 3.
1867, 285, § 2.
1874, 221, § 1.
1880, 194, § 1.
P. S. 74, § 4.
1883, 157.
1884, 275, § 3.
1886, 90.
1887, 280, § 1.
1892, 357, § 1.
1894, 508, § 11.
120 Mass. 383.
130 Mass. 33.

SECTION 24. No child under eighteen years of age and no woman shall be employed in laboring in a manufacturing or mechanical establishment more than ten hours in any one day, except as hereinafter provided in this section, unless a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed fifty-eight in a week. Every employer shall post in a conspicuous place in every room in which such persons are employed a printed notice stating the number of hours' work required of them on each day of the week, the hours of commencing and stopping work, and the hours when the time allowed for meals begins and ends or, in the case of establishments exempted from the provisions of sections thirty-six and thirty-seven, the time, if any, allowed for meals. The printed forms of such notices shall be provided by the chief of the district police, after approval by the attorney general. The employment of such person for a longer time in a day than that so stated shall be deemed a violation of the provisions of this section unless it appears that such employment was to make up time lost on a previous day of the same week in consequence of the stopping of machinery upon which he was employed or dependent for employment; but no stopping of machinery for less than thirty consecutive minutes shall justify such overtime employment, nor shall such overtime employment be authorized until a written report of the day and hour of its occurrence and its duration is sent to the chief of the district police or to an inspector of factories and public buildings.

Penalties.
1842, 60, § 4.
G. S. 42, § 3.
1867, 285, § 3.
1874, 221, § 2.
1879, 207.
1880, 194, § 2.
P. S. 74, § 5.
1884, 275, § 2.
1887, 280, § 1.
1894, 508, §§ 59–61.

SECTION 25. A parent or guardian who permits a minor under his control to be employed in violation of the provisions of the two preceding sections and any person, who, either for himself or as superintendent, overseer or agent for another, employs any person in violation of the provisions of said sections or fails to post the notice required by the preceding section or makes a false report of the stopping of machinery under the provisions of said section shall be punished by a fine of not less than fifty nor more than one hundred dollars. A certificate of the age of a minor, made and sworn to by him and by his parent or guardian at the time of his employment in a mercantile establishment, shall be prima facie evidence of his age in any prosecution under the provisions of this section.

Form of complaint.
1892, 210.
1894, 508, § 56.

SECTION 26. The form of complaint heretofore used may be used in prosecutions under the provisions of section twenty-four, and if substantially followed shall be deemed sufficient, fully and plainly, substantially and formally, to describe the offences therein set forth; but the provisions of this section shall not be construed to prohibit the use of any other suitable form.

SECTION 27. No person, and no agent or officer of a person or corporation, shall employ a woman or minor in any capacity for the purpose of manufacturing between ten o'clock at night and six o'clock in the morning. Whoever violates the provisions of this section shall be punished by a fine of not less than twenty nor more than fifty dollars for each offence.

Night work of women and minors.
1890, 183.
1892, 83.
1894, 508, §§ 12, 68.
[1 Op. A. G. 209.]

EMPLOYMENT OF WOMEN AND CHILDREN.

SECTION 28. No child under the age of fourteen years shall be employed in any factory, workshop or mercantile establishment. No such child shall be employed at work performed for wages or other compensation, to whomsoever payable, during the hours when the public schools of the city or town in which he resides are in session, nor be employed at work before six o'clock in the morning or after seven o'clock in the evening. 1898, 494, § 1.

Employment of children under fourteen.
1867, 285, § 1.
1876, 52, § 1.
P. S. 48, § 1.
1883, 224.
1885, 222.
1888, 348, §§ 1, 2.
1892, 352.
1894, 508, §§ 13, 15.

SECTION 29. No child under sixteen years of age shall be employed in a factory, workshop or mercantile establishment unless his employer procures and keeps on file, accessible to the truant officers of the city or town, and to the district police and inspectors of factories and public buildings, an age and schooling certificate and keeps two complete lists of all such minors employed therein, one on file, and one conspicuously posted near the principal entrance of the building in which such children are employed, and also keeps on file and sends to the superintendent of schools or, if there is no superintendent, to the school committee a complete list of the names of all minors employed therein who cannot read at sight and write legibly simple sentences in the English language.

— under sixteen.
1836, 245, § 1.
1849, 220, § 1.
1855, 379.
1858, 83, § 1.
G. S. 42, § 1.
1867, 285, § 1.
1876, 52, § 2.
1878, 257, §§ 1, 5.
1880, 137.
P. S. 48, §§ 2, 3.
1888, 348, § 2.
1892, 352.
1894, 508, § 14.
1898, 494, § 2.

SECTION 30. An age and schooling certificate shall be approved only by the superintendent of schools or by a person authorized by him in writing, or, if there is no superintendent of schools, by a person authorized by the school committee; but no member of a school committee or other person authorized as aforesaid shall approve such certificate for any minor then in or about to enter his own employment or the employment of a firm or corporation of which he is a member, officer or employee. The person who approves the certificate may administer the oath provided for therein, but no fee shall be charged therefor.

Approval of school certificate.
1888, 348, § 5.
1894, 508, § 19.
1898, 494, § 3.

SECTION 31. An age and schooling certificate shall not be approved unless satisfactory evidence is furnished by the last school census, the certificate of birth or baptism of such minor, the register of birth of such minor with a city or town clerk, or in some other manner, that such minor is of the age stated in the certificate.

Evidence of age.
1898, 494, § 4.

SECTION 32. The age and schooling certificate of a minor under sixteen years of age shall not be approved and signed until he presents to the person who is authorized to approve and sign it an employment ticket duly filled out and signed. A duplicate of each age and schooling certificate shall be filled out and shall be kept on file by the school committee. Any explanatory matter may, in the discretion of the school committee or superintendent of schools, be

Employment ticket necessary to approval of schooling certificate.
1888, 348, §§ 4, 9.
1890, 299, § 1.
1894, 508, §§ 17, 18, 62.
1898, 494, §§ 5, 6.

printed with such certificate. The employment ticket and the age and schooling certificate shall be separately printed, and shall be filled out, signed and held or surrendered, as indicated in the following forms: —

EMPLOYMENT TICKET, REVISED LAWS, c. 106, § 32.

When [name of minor] , height [feet and inches] , complexion [fair or dark], hair [color] , presents an age and schooling certificate duly signed, I intend to employ [him or her].

(Signature of intending employer or agent.)

(Town or city and date.)

AGE AND SCHOOLING CERTIFICATE, REVISED LAWS, c. 106, § 32.

This certifies that I am the [father, mother, guardian or custodian] of [name of minor] , and that [he or she] was born at [name of city or town] , in the county of [name of county, if known] , and state [or country] of , on the [day and year of birth] , and is now [number of years and months] old.

(Signature of father, mother, guardian or custodian.)

(City or town and date.)

Then personally appeared before me the above-named [name of person signing] , and made oath that the foregoing certificate by [him or her] signed is true to the best of [his or her] knowledge and belief. I hereby approve the foregoing certificate of [name of minor] , height [feet and inches] , complexion [fair or dark], hair [color] , having no sufficient reason to doubt that [he or she] is of the age therein certified. I hereby certify that [he or she] [can or cannot] read at sight and [can or cannot] write legibly simple sentences in the English language.

This certificate belongs to [name of minor in whose behalf it is drawn] , and is to be surrendered to [him or her] whenever [he or she] leaves the service of the corporation or employer holding the same; but if not claimed by said minor within thirty days from such time, it shall be returned to the superintendent of schools, or, if there is no superintendent of schools, to the school committee.

(Signature of person authorized to approve and sign, with official character or authority.)

(City or town and date.)

In the case of a minor who cannot read at sight and write legibly simple sentences in the English language, the certificate shall continue as follows, after the word "language": —

I hereby certify that [he or she] is regularly attending the [name] public evening school. This certificate shall continue in force only so long as the regular attendance of said minor at the evening school is indorsed weekly by a teacher thereof.

Whoever, being authorized to sign the foregoing certificate, knowingly certifies to any materially false statement therein shall be punished by a fine of not more than fifty dollars.

Penalty for violation of law relating to employment of children.
1836, 245, § 2.
1849, 220, § 3.
1858, 83, § 2.
G. S. 42, § 2.
1867, 285, § 3.
1876, 52, §§ 1, 3.
P. S. 48, §§ 1, 4.
1887, 224.
1887, 333, § 1.
1888, 348, § 9.
1894, 508, §§ 67, 69.
1898, 494, § 6.

SECTION 33. Whoever employs a minor under sixteen years of age, and whoever having under his control a minor under such age permits such minor to be employed, in violation of the provisions of sections twenty-eight and twenty-nine, shall for such offence be punished by a fine of not more than fifty dollars; and whoever continues to employ a minor in violation of the provisions of either of said sections, after being notified by a truant officer or an inspector of factories and public buildings thereof, shall for every day thereafter that such employment continues be punished by a fine of not less than five nor more than twenty dollars. A failure to produce

to a truant officer or inspector of factories and public buildings an age and schooling certificate or list required by law shall be prima facie evidence of the illegal employment of any person whose age and schooling certificate is not produced or whose name is not so listed. A corporation or employer who retains an age and schooling certificate in violation of the provisions of said certificate shall be punished by a fine of ten dollars.

Truant officers may visit factories, etc.
1878, 257, § 3.
P. S. 48, § 6.
1888, 348, § 8.
1894, 508, § 23.
1898, 494, § 8.

SECTION 34. Truant officers may visit the factories, workshops and mercantile establishments in their several cities and towns and ascertain whether any minors are employed therein contrary to the provisions of this chapter, and shall report any cases of such illegal employment to the school committee and to the chief of the district police or to the inspector of factories and public buildings. Inspectors of factories and public buildings and truant officers may require that the age and schooling certificates and lists of minors who are employed in such factories, workshops or mercantile establishments shall be produced for their inspection. Complaints for offences under the provisions of this chapter shall be made by inspectors of factories and public buildings.

Illiterate minors not to be employed, unless, etc.
1887, 433, § 2.
1889, 135.
1891, 317.
1894, 508, §§ 24, 70.
1898, 494, § 7.

SECTION 35. While a public evening school is maintained in the city or town in which any minor who is over fourteen years of age and who cannot read at sight and write legibly simple sentences in the English language resides, no person shall employ him and no parent, guardian or custodian shall permit him to be employed unless he is a regular attendant at such evening school or at a day school; but, upon presentation by such minor of a certificate signed by a registered practising physician and satisfactory to the superintendent of schools, or, if there is no such superintendent, to the school committee, showing that his physical condition would render such attendance in addition to daily labor prejudicial to his health, said superintendent or school committee shall issue a permit authorizing the employment of such minor for such period as said superintendent or school committee may determine. Said superintendent or school committee, or teachers acting under authority thereof, may excuse any absence from such evening school which arises from justifiable cause. Whoever employs a minor in violation of the provisions of this section shall forfeit not more than one hundred dollars for each offence to the use of the evening schools of such city or town. A parent, guardian or custodian who permits a minor under his control to be employed in violation of the provisions of this section shall forfeit not more than twenty dollars to the use of the evening schools of such city or town.

Meal hours.
1887, 215, § 1.
1894, 508, § 26.

SECTION 36. Women and young persons, five or more in number, who are employed in the same factory shall be allowed their meal times at the same hour, except that any such persons who begin work in such factory at a later hour in the morning than other such persons employed therein may be allowed their meal times at a different time; but no such persons shall be employed during the regular meal hour in tending the machines or doing the work of any other women or young persons in addition to their own.

Children, etc., not to be continuously employed.
1887, 215, § 2.
1894, 508, § 27.

SECTION 37. No woman or young person shall be employed for more than six hours at one time in a factory or workshop in which five or more such persons are employed without an interval of at least half an hour for a meal; but such person may be so employed for not more than six and one-half hours at one time if such employment ends not later than one o'clock in the afternoon and if he or she is then dismissed from the factory or workshop for the remainder of the day; or for not more than seven and one-half hours at one time if he or she is allowed sufficient opportunity for eating a lunch during the continuance of such employment and if such employment ends not later than two o'clock in the afternoon, and he or she is then dismissed from the factory or workshop for the remainder of the day.

Exemptions from two preceding sections.
1887, 215, § 3.
1894, 508, § 28.

SECTION 38. The provisions of the two preceding sections shall not apply to iron works, glass works, paper mills, letter press establishments, print works, bleaching works or dyeing works; and the chief of the district police, if it is proved to his satisfaction that in any other class of factories or workshops it is necessary, by reason of the continuous nature of the processes or of special circumstances affecting such class, to exempt it from the provisions of the two preceding sections and that such exemption can be made without injury to the health of the women or young persons affected thereby, may, with the approval of the governor, issue a certificate granting such exemption, public notice whereof shall, without expense to the commonwealth, be given in the manner directed by said chief.

Employer not responsible in certain cases of violations of law.
1887, 215, § 5; 280, § 1; 330.
1894, 508, §§ 11, 29.

SECTION 39. If a minor under the age of eighteen years or a woman shall, without the orders, consent or knowledge of the employer or of a superintendent, overseer or other agent of the employer, labor in a manufacturing or mechanical establishment, factory or workshop during a part of any time allowed for meals in such establishment, factory or workshop, according to the notice required by section twenty-four, and if a copy of such notice was posted in a conspicuous place in the room where such labor was performed with a rule of the establishment, factory or workshop forbidding such minor or woman to labor during such time, then neither the employer nor a superintendent, overseer or other agent of the employer shall be held responsible for such labor.

Penalties.
1887, 215, § 5.
1894, 508, § 71.

SECTION 40. Whoever either for himself or as superintendent, overseer or agent violates the provisions of the four preceding sections shall be punished by a fine of not less than fifty nor more than one hundred dollars.

Seats for female employees.
1882, 150, § 1.
1894, 508, §§ 30, 72.

SECTION 41. A person who employs females in any manufacturing, mechanical or mercantile establishment shall provide suitable seats for their use and shall permit the use of such seats by them when they are not necessarily engaged in the active duties of their employment. Whoever violates the provisions of this section shall be punished by a fine of not less than ten nor more than thirty dollars for each offence.

SECTION 42. Whoever, either for himself or as superintendent, overseer or agent permits a child under fourteen years of age to clean any part of the machinery in a factory, if it is in motion by the aid of steam, water or other mechanical power, or if it is in dangerous proximity to such moving part, shall be punished by a fine of not less than fifty nor more than one hundred dollars for each offence.

Children not to clean machinery in motion. 1887, 121, § 1. 1894, 508, §§ 31, 73.

SECTION 43. Whoever employs or permits a child under fifteen years of age to have the care, custody, management or operation of an elevator, or employs or permits a child under eighteen years of age to have the care, custody, management or operation of an elevator running at a speed of over two hundred feet a minute shall be punished by a fine of not less than twenty-five nor more than one hundred dollars for each offence.

Care and custody of elevators. 1890, 90, § 1. 1894, 508, §§ 32, 74.

SECTION 44. The state board of health shall, upon the application of any citizen of the commonwealth, determine, after such investigation as it considers necessary, whether or not the manufacture of a particular acid is dangerous or injurious to the health of minors under eighteen years of age; and its decision shall be conclusive evidence thereof. Whoever employs a child under eighteen years of age in the manufacture of an acid after the state board of health has determined that such manufacture is dangerous or injurious to his health shall be punished by a fine of one hundred dollars for each offence.

Employment of minors in the manufacture of acids. 1901, 164.

PUBLIC EXHIBITION OF CHILDREN.

SECTION 45. No person shall employ, exhibit or sell, apprentice or give away, a child under fifteen years of age for the purpose of employing or exhibiting him in dancing on the stage, playing on musical instruments, singing, walking on a wire or rope, or riding or performing as a gymnast, contortionist or acrobat in a circus, theatrical exhibition or in any public place, or cause, procure or encourage such child to engage therein; but the provisions of this section shall not prevent the education of children in vocal and instrumental music or dancing or their employment as musicians in a church, chapel, school or school exhibition, or prevent their taking part in any festival, concert or musical exhibition upon the special written permission of the mayor and aldermen of a city or of the selectmen of a town. Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

Exhibition, etc., of children prohibited. 1877, 172. P. S. 48, § 8. 1894, 508, §§ 49, 64. 1898, 394.

SECTION 46. A license shall not be granted for a theatrical exhibition or public show in which children under fifteen years of age are employed as acrobats or contortionists or in any feats of gymnastics or equestrianism, or in which such children who belong to the public schools are employed or allowed to take part as performers on the stage in any capacity, or if, in the opinion of the board authorized to grant licenses, such children are employed in such a manner as to corrupt their morals or impair their health; but the provisions of this section shall not prevent the granting of special permission authorized by the preceding section.

Licenses to be refused for public shows, when. 1874, 279. 1880, 88. P. S. 48, § 9. 1894, 508, § 50.

SANITARY PROVISIONS.

Sanitary provisions for factories, workshops, etc.
1887, 103, §§ 1, 2.
1888, 305.
1894, 508, § 33.

SECTION 47. Every factory in which five or more persons are employed, and every factory, workshop, mercantile or other establishment or office in which two or more children, under eighteen years of age or women are employed, shall be kept clean and free from effluvia arising from any drain, privy or nuisance, and shall be provided, within reasonable access, with a sufficient number of proper water closets, earth closets or privies; and wherever two or more males and two or more females are employed together, a sufficient number of separate water closets, earth closets or privies shall be provided for the use of each sex, and plainly so designated; and no person shall be allowed to use a closet or privy which is provided for persons of the other sex.

Occupant may recover expense of changes, etc.
1888, 305.
1894, 508, § 34.

SECTION 48. The owner, lessee or occupant of any premises which are used as described in the preceding section shall make the changes necessary to conform thereto. If such changes are made upon the order of an inspector of factories and public buildings by the occupant or lessee of the premises, he may, within thirty days after the completion thereof, bring an action against any other person who has an interest in such premises, and may recover such proportion of the expense of making such changes as the court adjudges should justly and equitably be borne by the defendant.

Notice of defective sanitary arrangements.
1887, 103, § 3.
1894, 508, § 35.

SECTION 49. If it appears to an inspector of factories and public buildings that any act, neglect or fault in relation to any drain, water closet, earth closet, privy, ashpit, water supply, nuisance or other matter in a factory or workshop included under the provisions of section forty-seven, is punishable or remediable under the provisions of chapter seventy-five or any other law relative to the preservation of the public health, but not under the provisions of this chapter, he shall give notice in writing thereof to the board of health of the city or town in which such factory or workshop is situated, and such board of health shall thereupon inquire into the subject of the notice and enforce the laws relative thereto.

Criminal prosecution for violation of certain sections.
1887, 103, § 4.
1894, 508, § 36.

SECTION 50. A criminal prosecution shall not be instituted against a person for a violation of the provisions of sections forty-seven and forty-eight until four weeks after notice in writing by an inspector of factories and public buildings of the changes necessary to be made to comply with the provisions of said sections has been sent by mail or delivered to such person, nor if such changes shall have been made in accordance with such notice. A notice shall be sufficient under the provisions of this section if given to one member of a firm, or to the clerk, cashier, secretary, agent or any other officer who has charge of the business of a corporation, or to its attorney; and in case of a foreign corporation, to the officer who has the charge of such factory or workshop; and such officer shall be personally liable for the amount of any fine if a judgment against the corporation is returned unsatisfied.

Factories, etc., to be properly ventilated.

SECTION 51. A factory in which five or more persons and a workshop in which five or more women or young persons are

employed shall, while work is carried on therein, be so ventilated that the air shall not become so impure as to be injurious to the health of the persons employed therein and so that all gases, vapors, dust or other impurities injurious to health, which are generated in the course of the manufacturing process or handicraft carried on therein shall, so far as practicable, be rendered harmless. 1887, 173, § 1. 1894, 508, § 37.

SECTION 52. If, in a workshop or factory which is within the provisions of the preceding section, any process is carried on by which dust is caused which may be inhaled to an injurious extent by the persons employed therein, and it appears to an inspector of factories and public buildings that such inhalation would be substantially diminished without unreasonable expense by the use of a fan or by other mechanical means, such fan or other mechanical means, if he so directs, shall be provided, maintained and used. Inspectors to enforce ventilation. 1887, 173, § 2. 1894, 508, § 38.

SECTION 53. A criminal prosecution shall not be instituted for any violation of the provisions of the two preceding sections unless such employer neglects, for four weeks after the receipt of a notice in writing, to make such changes in his factory or workshop as shall be ordered by an inspector of factories and public buildings. Criminal prosecution for violation of two preceding sections. 1887, 173, § 3. 1894, 508, § 39.

SECTION 54. Every public building and every school house shall be kept clean and free from effluvia arising from any drain, privy or nuisance, shall be provided with a sufficient number of proper water closets, earth closets or privies, and shall be ventilated in such a manner that the air shall not become so impure as to be injurious to health. The provisions of this section shall be enforced by the inspection department of the district police. Sanitary provisions for public buildings and school houses. 1888, 149, §§ 1, 2. 1894, 508, §§ 40, 41.

SECTION 55. If it appears to an inspector of factories and public buildings that further or different sanitary or ventilating provisions, which can be provided without unreasonable expense, are required in any public building or school house, he may issue a written order to the proper person or authority, directing such sanitary or ventilating provisions to be provided. A school committee, public officer or person who has charge of, owns or leases any such public building or school house who neglects for four weeks to comply with the order of such inspector shall be punished by a fine of not more than one hundred dollars. Whoever is aggrieved by the order of an inspector issued as above provided and relating to a public building or a school house may, within thirty days after the day of the service thereof, apply in writing to the board of health of the city or town to set aside or amend the order; and thereupon, the board, after notice to all parties interested, shall give a hearing upon such order and may alter, annul or affirm it. Inspector may order change in sanitary provisions. 1888, 149, §§ 3, 4. 1891, 261. 1894, 508, §§ 42, 43, 75. 1900, 239. [1 Op. A. G. 267.]

MANUFACTURE OF CLOTHING.

SECTION 56. A room or apartment in a tenement or dwelling house shall not be used for the purpose of making, altering, repairing or finishing therein coats, vests, trousers or wearing apparel of any description, except by the members of the family dwelling Regulations for places for making garments. 1891, 357, § 1. 1892, 296, § 1. 1893, 246, § 1.

1894, 508, § 44.
1898, 150, § 1.

therein; and a family which desires to make, alter, repair or finish coats, vests, trousers or wearing apparel of any description in a room or apartment in a tenement or dwelling house shall first procure a license therefor from an inspector of factories and public buildings, which shall be approved by the chief of the district police. A license may be applied for by, and issued to, any member of a family which desires to do such work. No person, partnership or corporation shall hire, employ or contract with a member of a family which does not hold a license therefor to make, alter, repair or finish garments or articles of wearing apparel as aforesaid, in any room or apartment in a tenement or dwelling house as aforesaid. Every room or apartment in which garments or articles of wearing apparel are made, altered, repaired or finished shall be kept in a cleanly condition and shall be subject to the inspection and examination of the inspectors of the district police for the purpose of ascertaining whether said room or apartment or said garments or articles of wearing apparel or any parts thereof are clean and free from vermin and from infectious or contagious matter. A room or apartment in a tenement or dwelling house which is not used for living or sleeping purposes and which is not connected with a room or apartment used for living or sleeping purposes and which has a separate and distinct entrance from the outside shall not be subject to the provisions of this section, nor shall the provisions of this section prevent the employment of a tailor or seamstress by any person or family for the making of wearing apparel for the use of such person or family.

Inspector to report evidence of infectious disease.
1891, 357, § 2.
1893, 246, § 2.
1894, 508, § 45.
1898, 150, § 2.

SECTION 57. If said inspector finds evidence of infectious or contagious disease or of vermin present in a workshop or in a room or apartment in a tenement or dwelling house in which garments or articles of wearing apparel are made, altered or repaired, or in goods manufactured or in process of manufacture therein, he shall report the same to the chief of the district police, who shall then notify the local board of health to examine said workshop, room or apartment and the materials used therein; and if the board of health finds that said workshop or tenement or dwelling house is in an unhealthy condition and that the clothing and materials used therein are unfit for use, it shall issue such orders as the public safety may require.

Tenement made clothing to be tagged.
1891, 357, § 4.
1892, 296, § 3.
1893, 246, § 4.
1894, 508, § 47.
1898, 150, § 3.

SECTION 58. Whoever sells or exposes for sale coats, vests, trousers or wearing apparel of any description which have been made in a tenement or dwelling house in which the family dwelling therein has not procured a license, as required by section fifty-six, shall have affixed to each of said garments a tag or label not less than two inches in length and one inch in width, upon which shall be legibly printed or written the words "tenement made" and the name of the state and the city or town in which the garment was made.

Not to be sold without a tag or label.
1891, 357, § 5.
1893, 246, § 5.
1894, 508, § 48.

SECTION 59. No person shall sell or expose for sale any of said garments without a tag or label as aforesaid affixed thereto, nor wilfully remove, alter or destroy such tag or label upon any of said garments when exposed for sale, nor sell or expose for sale any of said garments with a false or fraudulent label affixed thereto.

SECTION 60. If it is reported to said inspector, to the chief of the district police or to the state board of health that ready-made coats, vests, trousers, overcoats or other garments are being shipped to this commonwealth, having been manufactured under unhealthy conditions, said inspector shall examine said goods and the condition of their manufacture, and if they are found to contain vermin or to have been made in improper places or under unhealthy conditions, he shall so report to the state board of health, which shall thereupon make such orders as the public safety may require.

Clothing shipped to this commonwealth to be inspected, etc.
1891, 357, § 3.
1892, 296, § 2.
1893, 246, § 3.
1894, 508, § 46.

SECTION 61. Whoever violates any of the provisions of the five preceding sections shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Penalties.
1891, 357, § 7.
1893, 246, § 6.
1894, 508, §§ 63, 76.

PAYMENT OF WAGES.

SECTION 62. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, telegraph or telephone corporation, every incorporated express company or water company, and every contractor, person or partnership engaged in any manufacturing business, in any of the building trades, in quarries or mines, upon public works or in the construction or repair of railroads, street railways, roads, bridges or sewers or of gas, water or electric light works, pipes or lines, shall pay weekly each employee engaged in his or its business the wages earned by him to within six days of the date of said payment; and the commonwealth, its officers, boards and commissions shall so pay every mechanic, workman and laborer who is employed by it or them, and every city shall so pay every employee who is engaged in its business, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner; and every town and county shall so pay each employee in its business if so required by him; but an employee who is absent from his regular place of labor at a time fixed for payment shall be paid thereafter on demand. The provisions of this section shall not apply to an employee of a co-operative corporation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. The board of railroad commissioners, after a hearing, may exempt any railroad corporation from paying weekly any of its employees if it appears to the board that such employees prefer less frequent payments, and that their interests and the interests of the public will not suffer thereby. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this and the following section. Whoever violates the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

Weekly payment of wages.
1879, 128.
P. S. 28, § 12.
1886, 87, §§ 1, 2.
1887, 399, § 1.
1891, 239, § 1.
1894, 508, §§ 51, 65.
1895, 438.
1896, 241, 334.
1898, 481.
1899, 247.
1900, 470.
163 Mass. 589.
170 Mass. 140.
172 Mass. 230.

SECTION 63. The chief of the district police or an inspector of factories and public buildings may make a complaint against any person for a violation of the provisions of the preceding section. Complaints for such violations shall be made within thirty days after the date thereof and on the trial no defence for failure to pay as required, other than the attachment of such wages by the trustee process or a valid assignment thereof or a valid set-off

Chief of district police to prosecute violations of preceding section.
1886, 87, §§ 2-4.
1887, 399, § 2.
1891, 239.
1894, 508, §§ 52-54.
1895, 438.

1896, 334.
1898, 481.
1899, 247.

against the same or the absence of the employee from his regular place of labor at the time of payment or an actual tender to such employee at the time of payment of the wages so earned by him, shall be valid. The defendant shall not set up as a defence a payment of wages after the bringing of the complaint. An assignment of future wages which are payable weekly under the provisions of this chapter shall not be valid if made to the person from which such wages are to become due or to any person on his behalf or if made or procured to be made to another person for the purpose of relieving the employer from the obligation to pay weekly. The word "person" in this section shall include the corporations, contractors, persons and partnerships described in the preceding section.

Grading of work not to lessen wages of weavers, etc.
1887, 361.
1891, 125.
1892, 410, §§ 1, 2.
1894, 508, §§ 55, 66.
155 Mass. 117.
172 Mass. 230.
[1 Op. A. G. 60.]

SECTION 64. The system used by manufacturers of grading the work of a weaver shall not affect or lessen the wages of the weaver, except for imperfections in his own work; and in no case shall the wages of those engaged in weaving be affected by fines or otherwise unless the imperfections complained of are first exhibited and pointed out to the person whose wages are to be affected; and a fine shall not be imposed upon any person for imperfect weaving unless the provisions of this section are first complied with and the amount of the fines are agreed upon by both parties. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars for the first offence, and by a fine of not more than three hundred dollars for each subsequent offence.

Specifications to be furnished to weavers in cotton factories.
1894, 534, § 1.

SECTION 65. The occupier or manager of every cotton factory shall supply to each person who is engaged as a weaver in said factory and is paid by the piece, cut or yard, a printed or written ticket with each warp which shall contain the following specifications as to the work to be done and wages paid: the number of cuts, the number of yards per cut or piece, the price per yard, cut or piece, the number of picks per inch and the number of reeds to the inch. Said occupier or manager shall also supply to each person who is engaged as a frame tender a specification of the number of roving and price per hank or hanks; and to each person engaged as a warper or web drawer a specification of the number of threads in the warp and the rate of compensation; and to each operative who is paid by the pound a specification of the price to be paid per pound or pounds; said specification to be furnished in each case on a printed or written ticket within seven days after the time when said operative begins work.

Specifications, rates of compensation, etc., to be posted in textile factories.
1895, 144, § 1.
1901, 370, § 1.

SECTION 66. The occupier or manager of every textile factory shall post in every room where any employees work by the job, in legible writing or printing, and in sufficient numbers to be easily accessible to such employees, specifications of the character of each kind of work to be done by them, and the rate of compensation. Such specifications in the case of weaving rooms shall state the intended or maximum length or weight of a cut or piece, the count per inch of reed, and the number of picks per inch and the price per cut or piece, or per pound; or, if payment is made per pick or per yard, the price per pick or per yard; and each warp shall bear a designating ticket or mark of identification. In roving or spinning

rooms the number of roving or yarn and the price per hank for each size of machine shall be stated; and each machine shall bear a ticket stating the number of the roving or yarn made upon it. The maximum length of a cut or piece shall not exceed five per cent of the intended length of the same.

Enforcement of furnishing specifications. 1894, 534, § 3. 1895, 144, § 3. 1901, 370, § 2.

SECTION 67. The members of the inspection department of the district police shall enforce the provisions of the two preceding sections. They may go into any room, mill or factory to ascertain the facts relative to any work done therein or coming from any other room, mill or factory, and to take the measurements of such work.

Penalties. 1894, 534, § 2. 1895, 144, § 2. 1901, 370, § 2.

SECTION 68. The occupier or manager of a cotton factory who fails to comply with the provisions of section sixty-five or the occupier or manager of a textile factory who fails to comply with the provisions of section sixty-six or any person who interferes with the members of the district police in the performance of their duties under the provisions of the preceding section shall be punished by a fine of not less than twenty-five nor more than fifty dollars for the first offence, and by a fine of not less than fifty nor more than one hundred dollars for each subsequent offence.

Deductions from wages of women, etc., forbidden. 1898, 505.

SECTION 69. Deductions shall not be made from the wages of women and minors who are paid by the day or hour, and are employed in manufacturing or mechanical establishments, for time during which the machinery is stopped, if said women and minors are refused the privilege of leaving the mill while the damage to said machinery is being repaired; and if such employees are detained in their work rooms during the time of the breaking down of machinery, they shall not be compelled to make up time lost by such breakdown unless they are compensated therefor at their regular rates of wages. Whoever violates the provisions of this section shall be punished by a fine of not more than twenty dollars for each offence.

General penalty. 1892, 410, § 2. 1894, 508, § 78.

SECTION 70. Whoever violates a provision of this chapter for which no specific penalty is provided shall be punished by a fine of not more than one hundred dollars.

LIABILITY OF EMPLOYERS TO EMPLOYEES.

Liability of employer to employee. 1887, 270, § 1.

SECTION 71. If personal injury is caused to an employee, who, at the time of the injury, is in the exercise of due care, by reason of:

1892, 260, § 1. 1893, 359. 1894, 499. 1897, 491. 150 Mass. 190. 151 Mass. 92. 154 Mass. 31. 158 Mass. 135. 160 Mass. 201. 161 Mass. 368. 164 Mass. 168. 166 Mass. 268.

Defects. 147 Mass. 573. 150 Mass. 190. 154 Mass. 29. 155 Mass. 21. 156 Mass. 131, 298. 158 Mass. 318. 159 Mass. 1. 160 Mass. 131, 248, 260.

First, A defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from, or had not been discovered or remedied in consequence of, the negligence of the employer or of a person in his service who had been entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition; or,

162 Mass. 198, 312. 163 Mass. 221, 365. 164 Mass. 523. 165 Mass. 202, 443. 167 Mass. 588, 590. 168 Mass. 41, 226, 268. 169 Mass. 541, 574. 171 Mass. 417. 174 Mass. 320. 175 Mass. 183.

Negligence of superintendent.
155 Mass. 584.
156 Mass. 131, 293, 342, 368.
158 Mass. 174, 379.
159 Mass. 532.

Second, The negligence of a person in the service of the employer who was entrusted with and was exercising superintendence and whose sole or principal duty was that of superintendence, or, in the absence of such superintendent, of a person acting as superintendent with the authority or consent of such employer; or,

160 Mass. 131, 457, 573.
161 Mass. 170.
162 Mass. 185.
163 Mass. 216, 365.
164 Mass. 387.
165 Mass. 202, 436, 443.
167 Mass. 588.
169 Mass. 485.
170 Mass. 298.
171 Mass. 162, 395.
172 Mass. 555.
173 Mass. 400.
174 Mass. 455.
177 Mass. 176.

Negligent control of signal, etc.
151 Mass. 245.
153 Mass. 112, 356.
156 Mass. 13, 262.
159 Mass. 348.
164 Mass. 296, 523.
166 Mass. 268.
169 Mass. 170.
171 Mass. 249.
176 Mass. 393.

Third, The negligence of a person in the service of the employer who was in charge or control of a signal, switch, locomotive engine or train upon a railroad;

the employee, or his legal representatives, shall, subject to the provisions of the eight following sections, have the same rights to compensation and of action against the employer as if he had not been an employee, nor in the service, nor engaged in the work, of the employer.

A car which is in use by, or which is in possession of, a railroad corporation shall be considered as a part of the ways, works or machinery of the corporation which uses or has it in possession, within the meaning of clause one of this section, whether it is owned by such corporation or by some other company or person. One or more cars which are in motion, whether attached to an engine or not, shall constitute a train within the meaning of clause three of this section, and whoever, as a part of his duty for the time being, physically controls or directs the movements of a signal, switch, locomotive engine or train shall be deemed to be a person in charge or control of a signal, switch, locomotive engine or train within the meaning of said clause.

Action if injury followed by death not instantaneous or death with conscious suffering.
1892, 260, § 1.
1893, 359.
1894, 499.
151 Mass. 245.
160 Mass. 39.

SECTION 72. If the injury described in the preceding section results in the death of the employee, and such death is not instantaneous or is preceded by conscious suffering, and if there is any person who would have been entitled to bring an action under the provisions of the following section, the legal representatives of said employee may, in the action brought under the provisions of the preceding section, recover damages for the death in addition to those for the injury.

—if followed by instantaneous death or death without conscious suffering.
1887, 270, § 2.
151 Mass. 245.
155 Mass. 1.
156 Mass. 86.
164 Mass. 555.
167 Mass. 590.
175 Mass. 502.

SECTION 73. If, as the result of the negligence of an employer himself, or of a person for whose negligence an employer is liable under the provisions of section seventy-one, an employee is instantly killed, or dies without conscious suffering, his widow or, if he leaves no widow, his next of kin, who, at the time of his death, were dependent upon his wages for support, shall have a right of action for damages against the employer. 176 Mass. 266, 393.

Damages.
1887, 270, § 3.
1892, 260.
1893, 359.
1894, 499.
1900, 446.

SECTION 74. If, under the provisions of either of the two preceding sections, damages are awarded for the death, they shall be assessed with reference to the degree of culpability of the employer or of the person for whose negligence the employer is liable.

The amount of damages which may be awarded in an action under the provisions of section seventy-one for a personal injury to an employee, in which no damages for his death are awarded under

the provisions of section seventy-two, shall not exceed four thousand dollars.

The amount of damages which may be awarded in such action, if damages for his death are awarded under the provisions of section seventy-two, shall not exceed five thousand dollars for both the injury and the death, and shall be apportioned by the jury between the legal representatives of the employee and the persons who would have been entitled, under the provisions of section seventy-three, to bring an action for his death if it had been instantaneous or without conscious suffering.

The amount of damages which may be awarded in an action brought under the provisions of section seventy-three shall not be less than five hundred nor more than five thousand dollars.

Notice.
1887, 270, § 3.
1888, 155, § 1.
1892, 260, § 2.
1894, 389.
1900, 446.
150 Mass. 190.
151 Mass. 245.
153 Mass. 29, 356, 380, 468.
155 Mass. 1.
156 Mass. 262.
157 Mass. 51.
160 Mass. 143, 201, 250.
162 Mass. 334.
163 Mass. 105.
166 Mass. 268.
170 Mass. 348.
172 Mass. 415.
173 Mass. 177.
175 Mass. 391.

SECTION 75. No action for the recovery of damages for injury or death under the provisions of sections seventy-one to seventy-four, inclusive, shall be maintained unless notice of the time, place and cause of the injury is given to the employer within sixty days, and the action is commenced within one year, after the accident which causes the injury or death. Such notice shall be in writing, signed by the person injured or by a person in his behalf; but if from physical or mental incapacity it is impossible for the person injured to give the notice within the time provided in this section, he may give it within ten days after such incapacity has been removed, and if he dies without having given the notice and without having been for ten days at any time after his injury of sufficient capacity to give it, his executor or administrator may give such notice within sixty days after his appointment. A notice given under the provisions of this section shall not be held invalid or insufficient solely by reason of an inaccuracy in stating the time, place or cause of the injury, if it is shown that there was no intention to mislead, and that the employer was not in fact misled thereby. The provisions of section twenty-two of chapter fifty-one shall apply to notices under the provisions of this section.

Liability of employer to employee of a contractor or sub-contractor.
1887, 270, § 4.
158 Mass. 233.

SECTION 76. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or sub-contract shall not bar the liability of the employer for injuries to the employees of such contractor or sub-contractor, caused by any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer or are furnished by him and if such defect arose, or had not been discovered or remedied, through the negligence of the employer or of some person entrusted by him with the duty of seeing that they were in proper condition.

Employer not liable, when.
1887, 270, § 5.
156 Mass. 368.

SECTION 77. An employee or his legal representatives shall not be entitled under the provisions of sections seventy-one to seventy-four, inclusive, to any right of action for damages against his employer if such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give, or

cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer who was entrusted with general superintendence.

Evidence in reduction of damages. 1887, 270, § 6.

SECTION 78. An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries for which compensation may be recovered under the provisions of sections seventy-one to seventy-four, inclusive, or to any relief society formed under the provisions of sections seventeen, eighteen and nineteen of chapter one hundred and twenty-five, may prove in mitigation of the damages recoverable by an employee under the provisions of said sections, such proportion of the pecuniary benefit which has been received by such employee from any such fund or society on account of such contribution of said employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Domestic servants, etc. 1887, 270, § 7.

SECTION 79. The provisions of the eight preceding sections shall not apply to injuries caused to domestic servants or farm laborers by fellow employees.

CHAPTER 107.

OF THE BUREAU OF STATISTICS OF LABOR AND THE BOARD OF SUPERVISORS OF STATISTICS.

SECTIONS 1–4. — Of the Bureau of Statistics of Labor and the Board of Supervisors of Statistics.
SECTIONS 5–9. — Statistics of Manufactures.
SECTIONS 10, 11. — The Board of Supervisors of Statistics.

THE BUREAU OF STATISTICS OF LABOR.

Bureau of statistics of labor. Res. 1869, 102. Res. 1870, 74. Res. 1873, 53. 1876, 151, §§ 1, 2. P. S. 31, §§ 13, 15, 16. 1884, 4. 1888, 115. 1897, 430. 1899, 115.

SECTION 1. There shall be a bureau of statistics of labor consisting of a chief who shall be appointed by the governor, with the advice and consent of the council, in May in the year nineteen hundred and three and thereafter biennially in May. The chief shall appoint a first clerk and a second clerk. The chief shall receive an annual salary of three thousand dollars, the first clerk, an annual salary of two thousand dollars and the second clerk, an annual salary of sixteen hundred and fifty dollars. The chief may also employ two special agents who shall each receive an annual salary of twelve hundred dollars, and may expend for clerical and contingent expenses such amounts as the legislature may annually appropriate for said purposes, and for such clerical expenses he may pay such compensation as he deems reasonable, not exceeding four dollars a day to each in addition to his travelling expenses.

Duties and powers of bureau. Res. 1869, 102.

SECTION 2. The bureau shall collect, assort, arrange and present in annual reports to the general court, on or before the first day of March, statistical details relative to all departments of labor in the

commonwealth, especially in relation to the commercial, industrial, social, educational and sanitary condition of the laboring classes and to the permanent prosperity of the productive industry of the commonwealth. It may also distribute at such regular intervals as it deems advisable a bulletin relative to the state of employment and industrial conditions. It may send for persons and papers, and examine witnesses under oath; and such witnesses shall be summoned in the same manner and be paid the same fees as witnesses before the superior court. P. S. 31, §§ 13, 14. 1895, 290.

SECTION 3. The chief of said bureau, upon the request of the mayor and aldermen of a city or the selectmen of a town, shall cause an enumeration to be made within three months thereafter, showing the number of inhabitants and legal voters in each street, square or avenue of such city or town, or in such blocks or sections thereof as may be agreed upon by said chief and the mayor and aldermen or selectmen, and he shall report the result thereof to the city or town clerk. The expense of such special enumeration shall be paid by the commonwealth, and the treasurer and receiver general shall thereupon issue his warrant requiring the assessors of such city or town to assess a tax to the amount of such expense and the same shall be collected and paid over in the same manner as other state taxes. Special enumeration of cities and towns. 1894, 334.

SECTION 4. The chief of said bureau, having first obtained authority from the governor and council, may destroy or sell all such records, schedules and papers which accumulate in said bureau as, in his judgment, are of no value; and, if sold, the proceeds thereof shall be paid into the treasury of the commonwealth. Disposition of useless records. 1887, 43.

STATISTICS OF MANUFACTURES.

SECTION 5. The bureau shall annually, on or before the fifteenth day of December, transmit by mail to the owner, operator or manager of every manufacturing establishment in the commonwealth a schedule embodying inquiries as to, — Schedule sent to manufactories. 1886, 174, § 1.

(1.) Name of the person, partnership or corporation.
(2.) Kind of goods manufactured or business done.
(3.) Number of partners or stockholders.
(4.) Capital invested.
(5.) Principal stock or raw material used, and total value thereof.
(6.) Gross quantity and value of articles manufactured.
(7.) Average number of persons employed, distinguishing as to sex, adults and children.
(8.) Smallest number of persons employed, and in what month.
(9.) Largest number of persons employed, and in what month.
(10.) Total wages, not including salaries of managers, paid during the year, distinguishing as to sex, adults and children.
(11.) Proportion that the business of the year bore to the greatest capacity for production of the establishment.
(12.) Number of weeks in operation during the year, partial time being reduced to full time.

Returns.
1886, 174, § 2.

SECTION 6. The owner, operator or manager of every establishment which is engaged in manufacturing, who receives the foregoing schedule, shall answer the inquiries thereon for the last calendar year or for the last financial year of the establishment and return said schedule to said bureau, with the answers therein certified as to their accuracy, on or before the twentieth day of January following the receipt of said schedule.

Abstracts.
1886, 174, § 3.

SECTION 7. The bureau shall annually prepare abstracts of the information so collected, with proper and comparative analyses thereof, and report the same in print to the general court. Such report shall be stereotyped and shall be numbered as one of the series of public documents.

Information to be deemed confidential.
1886, 174, § 4.

SECTION 8. The names of persons, partnerships or corporations who supply the information called for by the three preceding sections shall not be used in said reports, but such information shall be confidential and not for the purpose of disclosing any person's affairs. An agent or employee of said bureau who violates this provision shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Expenses.
1886, 174, § 5.

SECTION 9. The bureau may annually expend not more than sixty-five hundred dollars to carry out the provisions of the four preceding sections.

THE BOARD OF SUPERVISORS OF STATISTICS.

Board of supervisors of statistics.
Res. 1877, 60.
P. S. 31, § 17.
1886, 101, § 4.
1898, 433, § 24.

SECTION 10. The secretary of the commonwealth, the secretary of the state board of agriculture, the secretary of the board of education, the secretaries of the state boards of health, of insanity and of charity and the chief of the bureau of statistics of labor shall constitute a board of supervisors of statistics, who shall serve without pay. A member of said board shall be appointed chairman thereof by the governor, with the advice and consent of the council, and he may appoint a secretary. The board shall meet at the state house at least once in each month, and at other times when called together by the chairman.

Duties.
Res. 1877, 60.
P. S. 31, §§ 18, 19.

SECTION 11. The board shall have general supervision of all matters relative to the statistics to be gathered and reported by any of the departments represented on the board. Any investigation which is contemplated by any of said departments shall, before it is made, be reported to the board, which shall so direct the method thereof as to prevent unnecessary work and to make plain the presentation of the facts, and shall simplify and abridge, as far as may be, the statistical matter to be presented by any department represented, and, if such matter is germane to that under the care of another department, shall see that such matters are consolidated and presented by one department only. Not more than five hundred dollars shall be annually allowed said board for contingent expenses.

CHAPTER 108.

OF DISTRICT AND OTHER POLICE OFFICERS.

SECTIONS 1–9. — District Police.
SECTION 10. — County Police.
SECTIONS 11, 12. — Special Police.
SECTIONS 13–20. — Railroad and Steamboat Police.
SECTIONS 21–25. — Street Railway Police.
SECTIONS 26–28. — Reserve Police Force in Cities.
SECTIONS 29–31. — Police Pensions.
SECTIONS 32–35. — Police Matrons.
SECTIONS 36, 37. — Private Detectives.
SECTION 38. — List of Police.

DISTRICT POLICE.

SECTION 1. There shall be a district police force divided into an inspection department and a detective department. The inspection department shall consist of the chief of said force, thirty-three male and two female members; the detective department shall consist of said chief and thirteen members. The chief shall be the head of each of said departments. Each member of the district police force shall be appointed by the governor for a term of three years, and may be removed by him. Vacancies in either of said departments shall be filled by appointment to the department in which the vacancy occurs.

District police, number and appointment.
1865, 249, § 1.
1866, 261, § 1.
1871, 394, § 1.
1872, 355.
1875, 15, § 1.
1878, 242, § 1.
1879, 305, § 1.
P. S. 103, § 1.
1885, 131.
1887, 256.
1888, 113; 426, § 13.

1891, 302; 357, § 6.
1894, 281; 481, § 1.
1895, 396; 418, § 1.
1896, 546, § 4.
1898, 261.
166 Mass. 26.

SECTION 2. The governor shall designate one of the district police to be chief thereof, who shall have his office in Boston and who shall, subject to the approval of the governor, make all needful rules for the government of the district police, for reports to be made by them and for the performance of their duties. He shall annually, on or before the first day of January, report in print to the governor relative to factories and public buildings.

Chief of district police.
1865, 249, §§ 1, 4.
1871, 394, § 3.
1874, 405.
1875, 15, § 1.
1877, 214, § 6.
1879, 305, § 3.
P.S. 103, §§ 3, 11.
1894, 481, § 57.
1895, 418, § 6.

SECTION 3. The chief of the district police may appoint in his office two clerks, the first, at a salary of fifteen hundred dollars a year, and the second, at a salary of one thousand dollars a year, which shall be paid by the commonwealth. He may also appoint a clerk for service in the boiler inspection department at a salary of six hundred dollars a year.

Clerks.
1890, 137.
1892, 249.
1898, 219.

SECTION 4. Each member shall, before entering upon the performance of his duties, be sworn to the faithful performance thereof, and shall give bond to the treasurer and receiver general with sureties approved by the governor, in the sum of three thousand dollars, conditioned faithfully to perform his official duties and to account for all property which may come into his possession as such officer. He may be required by the governor to renew said bond from time to time, and, unless his oath of office is taken and

Members to be sworn and to give bonds.
1875, 15, §§ 2, 3.
1879, 305, § 4.
P. S. 103, § 4.

his bond approved and filed within ten days after the date of his appointment, such appointment shall be void.

Salaries and expenses.
1865, 249, § 3.
1867, 349, § 2.
1868, 338.
1871, 394, §§ 3, 5.
1875, 15, § 6.
1878, 242, § 3.
1879, 305, § 5.
P. S. 103, § 5.
1887, 127.
1891, 302.
1892, 128.
1893, 387.
1895, 418, § 8.
1896, 546, § 4.
1898, 261.

SECTION 5. Each male member shall receive an annual salary of fifteen hundred dollars, and each female member an annual salary of one thousand dollars, and his or her actual travelling and necessary expenses when on duty. The chief shall receive an annual salary of twenty-five hundred dollars. All fees received by the members of the district police shall be paid over by them to the treasurer and receiver general, and no salary shall be paid to any officer until he has made oath that he has paid over all such fees. Their accounts shall all be verified by oath, and shall be approved by the chief before being presented to the auditor.

Penalty for receiving rewards, etc.
1871, 394, §§ 5, 9.
1875, 15, § 6.
1877, 214, § 10.
1879, 305, § 6.
P. S. 103, § 6; 104, § 24.
1882, 266, § 5.
1894, 481, § 56.
133 Mass. 233.

SECTION 6. A district police officer who directly or indirectly receives a reward, gift or gratuity on account of his official services shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months; and shall also be discharged from office. A district police officer who fails to faithfully perform the duties required of him by chapter one hundred and four shall be immediately discharged from office.

Powers of district police.
1865, 249, § 5.
1866, 261, § 4.
1871, 394, §§ 2, 4, 7.
1875, 15, § 5.
1879, 305, §§ 2, 12.
P. S. 103, § 2.
1888, 113.
1894, 481, § 1.

SECTION 7. The district police shall have and exercise throughout the commonwealth all the powers of constables, except the service of civil process, and of police officers and watchmen. The governor may at any time command their services in suppressing riots and in preserving the peace; but, except as aforesaid, a member of the inspection department shall not be required to perform any other duties than such as pertain to an inspector of factories and public buildings or to an inspector of steam boilers.

Inspectors, powers, duties, etc.
1876, 216.
1877, 214, § 7.
1879, 305, § 12.
1880, 181.
1881, 137.
P. S. 103, § 10.
1882, 266, § 6.
1884, 52, § 3.
1887, 218.
1888, 426, §§ 10, 14.
1894, 382, § 1; 481, §§ 2, 35, 55.
See c. 104, § 52.

SECTION 8. The members of the inspection department of the district police shall, except as otherwise provided in chapters one hundred and four, one hundred and five and one hundred and six, enforce the provisions thereof and all other provisions of law relative to the employment of women and minors in manufacturing, mechanical and mercantile establishments, the employment of children, young persons or women in factories or workshops, the ventilation of factories or workshops and the securing of proper sanitary provisions therein, and the making of clothing in unsanitary conditions. For such purposes, said inspectors may enter all buildings and parts thereof which are subject to the provisions of said chapters and examine the methods of protection from accident, the means of escape from fire, the sanitary provisions and the means of ventilation, and may make investigations as to the employment of children, young persons and women.

Constables, etc., to aid governor, when.
1865, 249, § 2.
1866, 261, §§ 2, 3.
1871, 394, § 4.
1875, 15, § 9.
P. S. 103, § 12.

SECTION 9. Constables, city marshals, chiefs of police and all other police officers shall, within their respective cities and towns, aid the governor in the performance of his duties whenever called upon for that purpose; and any such officer who refuses so to do when called upon shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months.

COUNTY POLICE.

SECTION 10. County commissioners may appoint persons who are in the employment of said county as police officers, who shall, when on duty, wear in plain sight a metallic badge inscribed with the words "County Police" and the name of the county for which they are appointed. Such officers may preserve order in any court house or in any room or building used for county business and upon the adjoining premises. They may, without a warrant, arrest idle, intoxicated or disorderly persons who by their presence or conduct obstruct or annoy persons using county buildings or premises, or who violate the provisions of section eighty of chapter two hundred and eight, and may take persons so arrested to the nearest police station or other place of lawful detention.

County police. 1899, 196, §§ 2-4.

SPECIAL POLICE.

SECTION 11. If, in an emergency, special officers are appointed, under the name of police officers or any other name, to act as police officers for quelling a riot or disturbance or for protecting property, no person shall be so appointed who is not a resident of this commonwealth, unless he is a regular employee of the person or corporation whose property he is so appointed to protect.

Non-resident special police officers. 1892, 413, § 1.

SECTION 12. A person or corporation may at any time, if his or its property is in danger, call upon the regular police authorities in this commonwealth for assistance in its protection, and the provisions of this and the preceding section shall not limit or diminish such right; but no person or corporation shall request or authorize any person or body of persons not residents of this commonwealth, except regular employees, to assist such corporation with arms in the defence of its property, and no such request or authority shall justify an assault or attack with arms by a non-resident. Whoever being an employer of labor, requests or authorizes assistance in violation of the provisions of this section and whoever renders such assistance with arms shall be severally liable in damages to each person injured in person or property thereby.

Police protection authorized and regulated. 1892, 413, § 2.

RAILROAD AND STEAMBOAT POLICE.

SECTION 13. The mayor and aldermen of a city or the selectmen of a town, upon the petition of a railroad corporation having a passenger station therein, or of a common carrier of passengers by water for hire having a usual place of receiving or discharging passengers therein, may appoint as many of the persons in the employment of said petitioner as police officers as they may deem proper for the purposes and with the powers hereinafter set forth.

Railroad and steamboat police. 1871, 331, §§ 1, 8. 1874, 372, § 143. 1880, 85, § 1. P. S. 103, § 13.

SECTION 14. A copy of the record of all such appointments shall be filed by the petitioner with the clerk of each place in which such corporation draws cars by its own motive power or such carrier is accustomed to receive or discharge passengers, and in which it is intended that such police shall act; and the filing of such copy, duly attested, shall constitute the persons named therein railroad

Copy of appointment to be filed. 1871, 331, § 2. 1874, 372, § 143. 1878, 90. 1880, 85, § 2. P. S. 103, § 14. 1896, 225, § 1.

or steamboat police, respectively, within such towns or cities, and upon the boats or vessels of such carriers by water, while within the boundaries of the commonwealth, and shall be conclusive evidence of the regularity of their appointment.

Term of office.
1871, 331, §§ 1, 9.
1874, 372, § 143.
1880, 85, § 2.
P. S. 103, § 15.
1883, 65.

SECTION 15. Such police officers shall be sworn before a justice of the peace and shall hold their offices until their appointment is revoked by the mayor and aldermen of the city or the selectmen of the town in which they are appointed; but such petitioner, upon ceasing to require the services of any such officer, shall file a notice to that effect in the several offices in which notice of such appointment was originally filed, and thereupon the power of such officer shall cease.

Badges.
1871, 331, § 3.
1874, 372, § 144.
1880, 85, § 3.
P. S. 103, § 16.
1896, 225, § 2.

SECTION 16. Every such officer shall, when on duty except as a detective, wear in plain sight a metallic badge inscribed with the words "Railroad Police" and the name or initials of the corporation for which he is appointed, or "Steamboat Police", according to his appointment; and the presence of any such officer on the cars, steamboats or premises of the corporation upon whose petition he was appointed, wearing such badge, shall be prima facie evidence that he is lawfully on duty.

Arrest of disorderly persons without a warrant.
1871, 331, §§ 4, 5.
1874, 372, § 145.
P. S. 103, § 17.

SECTION 17. Railroad police officers may preserve order within and upon the premises and cars of the corporation upon whose petition they are appointed; may, without a warrant, arrest idle, intoxicated or disorderly persons who frequent such premises or cars and by their presence or conduct, or by profane or indecent language, obstruct or annoy travellers using the same; and may take such persons to the nearest police station or other place of lawful detention.

—of passengers refusing to pay fare.
1871, 331, § 7.
1874, 372, § 146.
P. S. 103, § 18.
143 Mass. 68, 228.
148 Mass. 119.

SECTION 18. If a passenger upon a railroad train refuses to pay his fare, or is noisy or disorderly, a railroad police officer may arrest him without a warrant, remove him to the baggage or other suitable car of such train and confine him there until the arrival of the train at a station where he can be placed in charge of an officer who shall take him to a place of lawful detention.

Powers of steamboat police.
1880, 85, § 4.
P. S. 103, § 19.

SECTION 19. Steamboat police officers shall have like powers, upon the vessels and boats of the carrier upon whose petition they are appointed, and upon the premises and at the wharves and landing places owned or used by such carrier, to those given by the provisions of the two preceding sections to railroad police officers.

Compensation.
1874, 372, § 147.
P. S. 103, § 20.

SECTION 20. Railroad and steamboat police officers shall be paid by the corporations upon whose petition they are appointed. Such corporations shall be liable for any official misconduct of such officers to the same extent as for torts of agents and servants in their employ.

STREET RAILWAY POLICE.

Street railway police officers.
1895, 318, §§ 1, 4.

SECTION 21. The mayor and aldermen of a city or the selectmen of a town, upon the petition of a majority of the board of directors of a corporation operating a street railway in such city or town,

shall appoint such persons as are designated in said petition as street railway police officers. An officer, agent or employee of such corporation shall not be so appointed; but a member of the regular police force in such city or town may be appointed a street railway police officer.

To wear badge when on duty, etc. 1895, 318, § 2.

SECTION 22. Every such officer shall, when on duty as such, wear in plain sight a metallic badge inscribed with the words "Street Railway Police", and he may be uniformed and equipped in the manner authorized by the mayor and aldermen or selectmen appointing him.

Powers and duties. 1895, 318, § 3.

SECTION 23. Such officer shall ride upon the cars of said corporation on any trip on said street railway from and to said city or town when requested so to do by the directors or by any officer or agent of said corporation duly authorized by the directors to make such request. He shall, while acting as such officer, arrest without a warrant any person committing, in his presence, any of the offences specified in section forty-eight of chapter one hundred and twelve, or in section two hundred and sixty of chapter one hundred and eleven, relative to street railways, in any city or town upon the route of said street railway, and shall take the person arrested to the police station or other place of lawful detention in the city or town in which the arrest is made, or in the adjoining city or town in which the car next stops; or he may place the person arrested in charge of a police officer or constable in either of such cities or towns, to be taken to a lawful place of detention within twenty-four hours after the time of such arrest, Sundays excepted. The officer who takes the person arrested to the place of detention shall make a complaint against him for the offence for which he was arrested, to a police, district or municipal court or trial justice having jurisdiction of such offences which are committed in the city or town in which such person is detained, and such court or justice shall have jurisdiction of the case.

Bond, etc., for compensation of officer. 1895, 318, § 4.

SECTION 24. No such police officer shall be appointed until the corporation which requests his appointment gives to the city or town in which it is to be made a bond with two sureties satisfactory to the appointing board, with condition that it will from time to time pay to such city or town such compensation for the services of such officer as shall be fixed by the appointing board, not exceeding twenty-five cents an hour. Such corporation shall not have any control over a street railway police officer or be responsible for his conduct, nor shall it be entitled to collect fares from him while travelling in the performance of his official duty.

Evidence of regularity of appointment. 1895, 318, § 5.

SECTION 25. The official record of the appointment of a street railway police officer, or a copy thereof duly attested by the proper officer, shall be conclusive of the regularity of his appointment; and his presence on the car or premises of such corporation, wearing a badge in accordance with the provisions of section twenty-two shall be prima facie evidence that he is lawfully on duty.

RESERVE POLICE FORCE IN CITIES.

Reserve police force.
1896, 314, §§ 1, 4.

SECTION 26. Any city, except Boston, in which the city council, with the approval of the mayor, accepts the provisions of this and the two following sections or has accepted the corresponding provisions of earlier laws, may establish a reserve police force; and appointments thereto shall be made in the same manner as appointments to the regular police force of said city, subject to such rules as the civil service commissioners may prescribe.

Number of members.
1896, 314, § 2.

SECTION 27. The number of members of such reserve force shall not exceed five in cities in which the number of members of the regular force does not exceed fifteen. If the number of members of the regular force exceeds fifteen, one member may be added to the reserve force for every three of the regular force above fifteen and not above thirty; one for every five of the regular force above thirty and not above eighty; and one for every ten of the regular force above eighty.

Powers, duties, compensation.
1896, 314, § 3.

SECTION 28. The mayor, chief of police or city marshal of a city in which such reserve force is established may assign the members thereof to duty in said city whenever and for such length of time as said mayor, chief of police or marshal may deem necessary; and when on duty the members of said reserve force shall have all the powers and duties of members of the regular police force of said city. The compensation of the members of said reserve force shall be fixed by the city council.

POLICE PENSIONS.

Police pensions in cities.
1892, 378, §§ 1, 4.

SECTION 29. The mayor and aldermen of any city, except Boston, which, by vote of its city council, accepts the provisions of this and the following section or has accepted the corresponding provisions of earlier laws, and which contains not less than seventy-five thousand inhabitants according to the latest census, state or national, may retire from active service and place upon a pension roll any member of the police department of such city sixty-five years of age or over who has performed faithful service in said department for not less than fifteen years, or any member of said department whom the city physician of such city certifies in writing to be permanently disabled, mentally or physically, by injuries sustained through no fault of his in the actual performance of duty, from further performing duty as such member, or any member of said department who has performed faithful service therein for not less than twenty years, if, in the judgment of said board, he is disabled for useful service in said department.

Amount of pension.
1892, 378, §§ 2, 3.

SECTION 30. The amount of the annual pension allowed to any person under the provisions of the preceding section shall not exceed one-half of the annual compensation received by him at the time of such retirement, if he is retired by reason of injuries received, nor exceed one-third of such compensation if he is retired by reason of age or service. Such pensions shall be paid by the city, which may appropriate money therefor.

SECTION 31. In cities, which, by vote of the city council, and in towns, which, by vote of the inhabitants at an annual town meeting, accept the provisions of this section, or have accepted the corresponding provisions of earlier laws, and which had not, prior to the ninth day of June in the year nineteen hundred and one, established a system of pensions for the members of its police department, the board or officer having authority to make appointments to the police department shall retire from further service therein any member of said department whom the city or town physician and two other physicians certify to be permanently incapacitated, physically or mentally, by injuries sustained in the actual performance of duty in the department. A member who is so retired shall annually receive as a pension one-half the compensation received by him at the time of his retirement, and cities and towns may appropriate money for the payment of pensions which are authorized by this section.

Police pensions for cities and towns. 1901, 377.

POLICE MATRONS.

SECTION 32. In every city which has a population of over thirty thousand inhabitants as shown by the latest census, state or national, except Boston, the mayor shall, and in any other city, except Boston, the mayor, and in Boston, the board of police, may designate one or more police stations for the detention and confinement of all women under arrest, and for the detention and lodging of women not under arrest, within such city. Such mayor or board of police may at any time designate additional stations, or may declare any stations so designated to be discontinued; but one such station shall always remain so designated, except in Boston. The board of police for the city of Boston and the mayor of any other city shall appoint, as soon as may be after any station has been so designated, one or two police matrons to be attached thereto.

Police matrons in cities. 1887, 234, § 1. 1888, 181.

SECTION 33. A woman shall not be appointed a police matron unless she is suitable for the position and has been recommended therefor in writing by at least ten women of good standing, residents of the city in which the appointment is to be made. A police matron shall be appointed to hold office until removal, and may be removed at any time by the mayor or board of police, as the case may be, by written order stating the cause of removal. Upon her death, resignation or removal her successor shall be appointed as soon as may be. She shall receive a reasonable compensation, which shall be fixed, except in Boston, by the city council, and in Boston, by the concurrent action of the city council and of the board of police, and shall be paid by the city treasurer upon the requisition of said board. If only one police matron is attached to a station, she shall reside within a reasonable distance thereof and shall be ready to respond to a call therefrom at any hour of the day or night. If two police matrons are attached to a station, the hours during which they shall respond to calls therefrom, respectively, shall be so fixed by the mayor or board of police that one of them shall be ready to respond at all hours of the day and night, and each such matron shall, during the hours so fixed for her, remain within a reasonable distance of such station and be ready to respond to any call there-

Tenure of office, salary, duties. 1887, 234, § 2. 1888, 181.

from. One of such matrons shall remain constantly at the police station to which she is attached, ready for service, so long as any woman is detained, lodged or held under arrest therein. A police matron shall have the entire care and charge of all women held under arrest, detained or lodged in the station to which she is attached, and she may at any time call upon the officer in command of such station for assistance. She shall be subject to the authority of the head of the police department of the city in which she serves, and to the rules and regulations, not inconsistent with the provisions of sections thirty-two to thirty-five, inclusive, which may be prescribed by such authority; but she shall not be subject to the control or direction of any police officer attached to a station except the officer in command thereof at the time. In every station to which a police matron is attached, the mayor or board of police shall, at the expense of the city, provide sufficient and proper accommodation for women held under arrest, detained or lodged therein.

Duties of matron. 1887, 234, § 4. 1888, 181.

SECTION 34. If a woman is arrested and taken to a police station to which a matron is attached or, if not under arrest, is detained or lodged therein, the police officer there in command shall cause the matron to be summoned forthwith; and if in a city in which a police matron has been appointed, or in Boston, a woman is arrested and taken to a station to which no matron is attached, or is received therein for the purpose of detention or lodging, such officer shall cause her to be removed as soon as possible to the nearest station to which a matron is attached, or in Boston, to the house of detention, and the city treasurer shall pay the reasonable expense of such removal upon the requisition of the head of the police department. Such removal of a woman shall not deprive any court of any jurisdiction which it would otherwise have had.

"Police station", "station" and "woman" defined. 1887, 234, § 5.

SECTION 35. The word "police station" or "station" in the three preceding sections shall mean any place in which persons are temporarily confined under arrest; the word "woman" or "women" shall mean any person or persons of the female sex.

PRIVATE DETECTIVES.

Private detectives to be licensed. 1879, 305, § 7. P. S. 103, § 7. 1898, 486.

SECTION 36. The board of police for the city of Boston, and the mayor and aldermen of other cities, may license any citizen of their respective cities to act as a private detective, for the detection, prevention and punishment of crime, for the term of one year, unless his license is sooner revoked for cause. The fee for such license shall be ten dollars, which shall be paid into the city treasury. Each person so licensed shall give bond to the city treasurer in the sum of three thousand dollars, with two sureties, approved by the licensing board, with condition for the proper discharge of the services which he may perform by virtue of such license; but the provisions of this section shall not confer on a person so licensed any of the power or authority of constables or police officers.

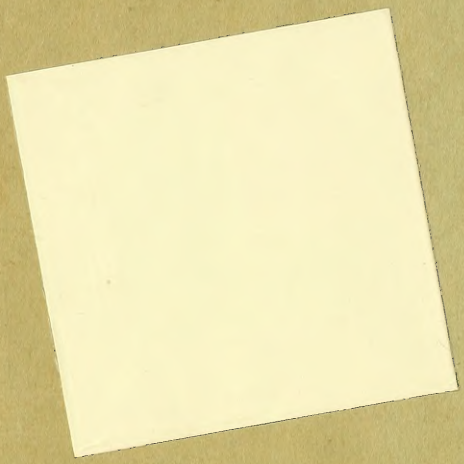
Penalties for acting without license. 1866, 261, § 5. 1875, 15, § 10.

SECTION 37. Whoever without such license engages in the general business of a private detective, or advertises or holds himself out as a private detective, or falsely assumes or pretends to be a

district police officer, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment; but the provisions of this section shall not apply to a detective of another state who comes within this commonwealth in the performance of his duties. 1879, 305, § 8. P. S. 103, § 8. 97 Mass. 591.

LIST OF POLICE.

SECTION 38. The clerk of each city or town in which a chief of police or city marshal is appointed, shall, within one week after such appointment, notify the prison commissioners of the name of the person so appointed; and the clerk of each town not having a chief of police shall annually, on the first day of October, send to the prison commissioners the names of all the police officers and constables in such town. If he neglects or refuses so to do, he shall be liable to a penalty of fifty dollars. List of police to prison commissioners. 1892, 290.



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